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September 26, 2011

REPORT TO EXECUTIVE DIRECTOR AND MEMBERS OF THE REDEVELOPMENT  
AGENCY OF THE CITY OF SAN DIEGO

RECENT STATE LEGISLATION AND PENDING LITIGATION CONCERNING  
REDEVELOPMENT

**INTRODUCTION**

This Report summarizes the contents of the recent State legislation adversely affecting redevelopment agencies (RDAs) and describes the status of the pending litigation in the California Supreme Court (Supreme Court) that seeks to invalidate the recent State legislation. Attachment 1 to this Report includes a chronology of past events and a timeline of future events affecting RDAs in the legislative and litigation arenas.

**DISCUSSION**

**I. RECENT STATE LEGISLATION**

**A. Approval of Legislation.**

On June 15, 2011, the State Legislature approved two budget trailer bills, commonly known as ABx1 26 (AB 26) and ABx1 27 (AB 27). On the evening of June 28, 2011, Governor Edmund G. Brown Jr. signed AB 26 and AB 27 (collectively, RDA Bills).<sup>1</sup> If upheld against a pending legal challenge, the RDA Bills will dramatically change the operation of RDAs. Among other things, the RDA Bills added many provisions to the California Community Redevelopment Law, set forth at California Health and Safety Code sections 33000 through 33855.<sup>2</sup>

**B. AB 26 – the Elimination Bill.**

AB 26 (sometimes referred to as the “Elimination Bill”) is very long and complex and, in some instances, ambiguous and internally inconsistent. In brief summary, AB 26 prevents RDAs from incurring new debt and obligations as of its effective date, but generally allows them to pay and perform existing debt and contractual obligations. It abolishes the concept of tax increment, but allows property taxes to continue to be allocated to pay existing debt. It eliminates RDAs as of October 1, 2011, except for RDAs that are exempted through “voluntary” compliance with AB 27. It also creates successor agencies to wind down the operations of RDAs expeditiously, commencing October 1, 2011, and establishes an oversight board, comprised of seven members

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<sup>1</sup> The RDA Bills purport to take effect on June 28, 2011, which is the date of the Governor’s signature. While there is considerable ambiguity concerning the actual effective date of the RDA Bills due to the procedure used to approve them, we assume on the conservative side that the RDA Bills took effect on the evening of June 28, 2011.

<sup>2</sup> Unless otherwise specified, all Section references in this Report are to the California Health and Safety Code, particularly the provisions added as a result of approval of the RDA Bills.

representing different local interests, to oversee the winding down of each dissolved RDA. More detail concerning AB 26 is contained in Part III below.

### **C. AB 27 – the Continuation Bill.**

AB 27 (sometimes referred to as the “Continuation Bill”) affords an opportunity for each RDA to remain in existence, and to gain a full exemption from AB 26, if the community that created the RDA, in this instance, the City, commits to a so-called “Alternative Voluntary Redevelopment Program” (Alternative Program) and agrees to make so-called “voluntary” remittances (Remittances) to the local county auditor-controller at the direction of the State Department of Finance in Fiscal Year 2011-12 and each ensuing fiscal year. The annual Remittance must be paid in two equal installments on January 15 and May 15 of each calendar year. Seeking to take advantage of AB 27, the City Council approved, and the Mayor executed, an ordinance on August 1, 2011 (AB 27 Ordinance) committing the City to pay the Remittances under the Alternative Program utilizing redevelopment funds provided by the Agency. Although the Agency initially believed that the City’s enactment of the AB 27 Ordinance would allow the Agency to become exempt immediately from the onerous provisions of AB 26, the issuance of a court order by the Supreme Court on August 11, 2011 negated, at least on a temporary basis, the Agency’s reliance on this exemption, as discussed in Part II.C below.

AB 27 establishes a complicated formula to calculate the proportionate share of \$1.7 billion in Fiscal Year 2011-12, and the proportionate share of \$400 million or more in Fiscal Year 2012-13 and each ensuing fiscal year, that must be paid in order to enable each RDA to remain in existence.<sup>3</sup> The State Department of Finance informed the City in early August 2011 that the Remittance owed by the City during Fiscal Year 2011-12 will be approximately \$69.2 million. The City filed a timely appeal of this determination on August 15, 2011, seeking a reduction of approximately \$13 million in the amount of the annual Remittance. The City’s appeal is still pending and, under Section 34194(b)(2) of AB 27, should be resolved by October 15, 2011 at the latest. Despite the City’s enactment of the AB 27 Ordinance, the Agency will be eliminated in the future if the City later rescinds the AB 27 Ordinance or fails to pay any Remittance in a timely manner in compliance with the Alternative Program.

## **II. PENDING LITIGATION IN SUPREME COURT**

### **A. Petition Filed on Behalf of Redevelopment Industry.**

On July 18, 2011, the California Redevelopment Association and related entities (collectively, CRA) filed a Petition for Writ of Mandate (Petition) directly with the Supreme Court against several State governmental entities (collectively, State Entities) in a lawsuit designated as Case No. S194861 (Litigation).<sup>4</sup> The Petition seeks two main remedies: (1) to

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<sup>3</sup> The proportionate share of \$400 million or more in all future fiscal years will include a potential “surcharge” under Section 34194(c)(2)(B) of AB 27, to be imposed on any RDA that incurs new debt that is first displayed on the RDA’s annual statement of indebtedness after October 1, 2011. The practical effect of this surcharge is that it will become substantially more expensive for RDAs to incur new debt in the future; this added debt expense will be paid indirectly by those RDAs in the form of a higher Remittance under AB 27. A detailed explanation of the complex formula for calculating the potential surcharge is beyond the scope of this Report.

<sup>4</sup> The petitioners in the Litigation include the California Redevelopment Association and its executive director, John F. Shirey, the League of California Cities, the City of Union City, and the City of San Jose. The respondents in the

obtain a stay, similar to an injunction, against the implementation of the RDA Bills pending the final outcome of the Litigation; and (2) to invalidate the RDA Bills on the basis that they violate numerous provisions of the California Constitution. The CRA filed the Petition directly in the Supreme Court in order to ensure that a final ruling, or at least a stay, is issued before RDAs are either eliminated as of October 1, 2011, or compelled to pay the first installment of the Remittances on January 15, 2012. The CRA also has asserted that the resolution of the Litigation is an urgent matter of statewide concern. The CRA provided the Supreme Court with several signed declarations accompanying the Petition, demonstrating the types of serious problems that will result if the effectiveness of the RDA Bills is not suspended promptly.

The focus of the Petition is that the RDA Bills violate various provisions of the California Constitution that were added to the Constitution as a result of the passage of Proposition 1A in November 2004 and the passage of Proposition 22 in November 2010. Proposition 1A generally imposes stringent limitations on the State Legislature's ability to reallocate property tax revenues. Proposition 22 prohibits the State Legislature from adopting legislation that seizes, diverts, transfers, or suspends, directly or indirectly, tax revenue dedicated to local government, including any tax increment revenue allocated to RDAs. The CRA argues in the Petition that the RDA Bills violate the California Constitution because they require RDAs to use their tax increment funds for the benefit of the State and certain non-redevelopment local entities, such as schools, transit districts, and fire districts. According to the Petition, the RDA Bills "achieve an unconstitutional result – the use of RDA funds to benefit the State and other local entities – by resorting to unconstitutional means: the threat of dissolving the RDAs. They are therefore unconstitutional twice over." The CRA states in the Petition that the purpose of the RDA Bills is to compel local entities, including RDAs, to help the State pay its constitutional obligation to support the educational system. For that reason, the CRA argues that the RDA Bills constitute an unfunded State mandate imposed on local agencies, in violation of the California Constitution.

#### **B. Opposition Filed on Behalf of State Entities.**

On July 27, 2011, the State Entities filed an opposition to the Petition and the CRA's request for a stay of the RDA Bills. In the opposition, the State Entities assert that RDAs are creatures of State statute, not the California Constitution, and that the State Legislature is permitted to dissolve RDAs by statute in the same way that the State Legislature created RDAs by statute. In other words, the creation of RDAs was a legislative act that may be undone at any time by the State Legislature. The State Entities argue that Proposition 22 only limits the State Legislature's ability to compel RDAs to make involuntary payments, not its ability to dissolve RDAs or to allow RDAs to continue their operations in exchange for so-called voluntary payments. According to the State Entities, the Alternative Program under AB 27 requires a voluntary payment by cities and counties, not an involuntary payment by RDAs. The State Entities characterize the RDA Bills as a difficult, but necessary and justified, policy choice that aims to alleviate the State's structural budget deficit.<sup>5</sup>

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Litigation, i.e., the State Entities, include: the State Director of Finance, Ana Matosantos; the State Controller, John Chiang; and the County Auditor-Controller in Alameda County, Patrick O'Connell, both individually and in his capacity as a representative of each county auditor-controller throughout California.

<sup>5</sup> The arguments made in the Petition and the opposition thereto are mainly focused on the issue of whether the Supreme Court should issue a stay of the RDA Bills. The parties recently submitted briefs on the merits of the

### **C. Amended Order Issued by Supreme Court.**

After considering the Petition as well as the opposition brief filed by the State Entities, the Supreme Court issued an order on August 11, 2011, later amended on August 17, 2011 (Amended Order). There are several main components in the Amended Order, as follows:

- The Supreme Court agreed to hear the Litigation and ordered the State Entities to “show cause” why the relief sought in the Petition should not be granted. As a result, the litigants will be able to bypass the trial court level and intermediate appellate court level, allowing a more expedited and less expensive process than otherwise would be involved if the CRA had pursued the Litigation in the normal course. The Supreme Court’s order to “show cause” should not necessarily be interpreted as a sign that the Supreme Court is inclined to rule against the State Entities on the merits. Rather, the Supreme Court is simply implementing a procedural mechanism for the filing of briefs. Indeed, the final paragraph of the Amended Order points out that the Supreme Court is not expressing any opinion on the merits at this time.
- The Supreme Court established an expedited schedule for deciding the Litigation. The written briefs of the parties, as well as amicus curiae, “friend of the court” briefs and replies thereto, will be submitted in September and October 2011. Oral argument on the merits of the Litigation will likely be scheduled by December 2011. A decision on the merits of the Litigation is anticipated before January 15, 2012, which is the deadline for the first installment of the Remittance to be paid in Fiscal Year 2011-12 under the Alternative Program.
- The Supreme Court issued a partial stay, suspending the implementation of a portion of the RDA Bills, but keeping another portion of the RDA Bills intact, pending the outcome of the Litigation on its merits. The practical effect of the partial stay is that all RDAs, regardless of whether their counterpart city has enacted or wishes to enact an ordinance pursuant to AB 27, will be severely constrained in their ability to transact any new business commencing as of August 11, 2011, under certain operative provisions in AB 26. More detail concerning the impacts of the partial stay is contained in Part III below.

### **D. Unsuccessful Motion for Clarification or Modification of Partial Stay.**

In an unexpected twist, the CRA’s request for a stay in the Litigation placed the Agency and similarly-situated RDAs in a much worse position than if the CRA had never made the request in the first instance. This unexpected circumstance prompted the CRA to seek relief from the Supreme Court. Specifically, on August 22, 2011, the CRA filed a motion with the Supreme Court, seeking a clarification or modification of the partial stay that would enable RDAs to become exempt from all of AB 26 and to operate in a “business as usual” capacity if their counterpart city already has enacted an ordinance pursuant to AB 27, as in the City’s situation, or wishes to enact such an ordinance. The Agency submitted a signed declaration in support of the

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Litigation, which raise some additional legal arguments. For the sake of expediency, this Report does not summarize those additional legal arguments.

CRA's motion, furnishing many concrete examples of how the continued application of the partial stay will cause substantial harm to the Agency.

On August 29, 2011, the County of Santa Clara filed an opposition to the CRA's motion, arguing that the CRA's requested modification of the partial stay would allow RDAs to continue to incur massive amounts of debt, thereby diminishing the receipt of property tax revenues by taxing agencies such as counties and schools upon the dissolution of RDAs. On September 1, 2011, the CRA filed a reply to the opposition, in which the CRA asserted that denial of the CRA's motion will not preserve the status quo as to RDAs who wish to remain in existence under AB 27 and will result in serious harm to those RDAs and the public interest.

On September 14, 2011, the Supreme Court issued a brief order denying the CRA's motion. Accordingly, the partial stay under the Amended Order is expected to remain in effect until the Supreme Court has issued a final ruling in the Litigation.

### **III. EFFECT OF PARTIAL STAY IN AMENDED COURT ORDER**

#### **A. Operative Provisions and Suspended Provisions.**

Under the Amended Order, all of Part 1.8 of AB 26, consisting of Sections 34161 through 34169.5, as well as Section 34194(b)(2) of AB 27, are presently operative with respect to all RDAs (collectively, Operative Provisions), and all other provisions of the RDA Bills are presently "stayed" or suspended (collectively, Suspended Provisions) pending the outcome of the Litigation on its merits. The Operative Provisions of AB 26 generally create a moratorium or "standstill" situation as to any new activities of RDAs, as discussed in Part III.B below, but require RDAs to pay existing debts and to carry out existing contractual and legal obligations. The Suspended Provisions of AB 26, if not stayed, would have caused the dissolution of RDAs as of October 1, 2011, and the designation of successor agencies to wind down their operations in an orderly and expeditious manner.

The sole Operative Provision in AB 27, namely Section 34194(b)(2), effectively requires the State Department of Finance to resolve any timely appeal of the amount of the Remittances owed under the Alternative Program during Fiscal Year 2011-12. The Suspended Provisions of AB 27, if not stayed, would have allowed RDAs to participate in the Alternative Program and to become exempt from all provisions of AB 26 if their counterpart cities enacted an ordinance pursuant to AB 27 and paid the annual Remittance to the local county auditor-controller.

#### **B. General Prohibition on Conducting New Business.**

Under the Operative Provisions of AB 26, RDAs generally must cease all "new business" as if the RDAs are preparing to be dissolved. Sections 34161 through 34167 provide numerous examples of actions that cannot be approved or taken, and expenditures that cannot be made, by RDAs in light of the partial stay in the Amended Order, as follows (collectively, Statutory Prohibitions):

- Under Section 34161, RDAs cannot "incur new or expand existing monetary legal obligations except as provided in [Part 1.8 of AB 26]."

- Section 34162 states that RDAs cannot take any action to incur indebtedness, such as: (i) the issuance of bonds for any purpose, (ii) the refund, restructuring, or refinancing of indebtedness or obligations that existed as of January 1, 2011; (iii) the acceptance of loans or advances for any purpose; (iv) the execution of any deeds of trust or mortgages on real or personal property; or (v) the pledge or encumbrance of revenues or assets for any purpose.
- Section 34163 provides that RDAs cannot undertake various types of new actions, such as: (i) loans, advances, grants, or financial assistance agreements to any entity or person for any purpose; (ii) new contracts, obligations, or commitments for any purpose; (iii) any amendments or modifications to existing agreements, obligations, or commitments for any purpose; (iv) disposition or transfer of assets for any purpose; (v) acquisition of real property by any means for any purpose; (vi) transfer or assignment of any assets, funds, rights, powers, ownership interests, or obligations for any purpose to any entity; or (vii) acceptance of financial or other assistance from public or private sources if the acceptance necessitates or is conditioned upon the RDA incurring indebtedness.
- Section 34164 states that RDAs cannot engage in various types of redevelopment activities, such as: (i) preparation, approval, or amendment of redevelopment plans, preliminary plans, five-year implementation plans, relocation plans, or replacement housing plans; (ii) creation, merger, or expansion of the boundaries of a project area; (iii) changes to, or designation of, any survey area; (iv) approval of any program, project, or expenditure where approval is not legally required; (v) development, rehabilitation, or construction of housing units within the community, unless required under an existing enforceable obligation; (vi) provision of relocation assistance or any commitment thereto, except where legally required; or (vii) provision of any financial assistance or any commitment thereto.
- Section 34165 provides that RDAs cannot undertake various types of planning or administrative activities, such as: (i) creation of new partnerships or new membership in a joint powers authority; (ii) any increase of pay, benefits, or contributions, or provision of any bonuses, for officers, employees, consultants, contractors, or service providers; (iii) any increase in the number of staff employed by the RDA, as compared to January 1, 2011; (iv) commencement of any validation proceeding with respect to the issuance of revenue bonds; (v) commencement of any condemnation proceeding or the acquisition of real property by eminent domain; or (vi) preparation of an environmental impact report.
- Under Section 34166, no new RDA or community development commission can be created by any local jurisdiction, including a chartered city.
- Section 34167(h) states that, commencing as of August 29, 2011, RDAs cannot make any payment (other than payments required to meet obligations with respect to

bonded indebtedness) unless the payment is listed in an adopted enforceable obligation payment schedule (EOP Schedule).<sup>6</sup>

In addition, Section 34167(a) expresses a broad legislative intent “to preserve, to the maximum extent possible, the revenues and assets of [RDAs] so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools.” Section 34167(a) also provides that RDAs shall “take no actions that would further deplete the corpus of [RDA] funds regardless of their original source.” Finally, Section 34167(a) states that the provisions of Part 1.8 of AB 26 “shall be construed as broadly as possible to support this intent and to restrict the expenditure of funds to the fullest extent possible.”

### **C. Potential Narrow Exceptions to General Prohibition.**

Certain provisions in Section 34169 impose affirmative responsibilities on RDAs, as follows (collectively, Statutory Responsibilities):

- Paragraph (a) obligates RDAs to continue to make all scheduled payments for enforceable obligations.<sup>7</sup>
- Paragraph (b) requires RDAs to perform obligations required pursuant to any enforceable obligations, such as fulfilling bond covenants.
- Paragraph (c) obligates RDAs to set aside or maintain reserves in the amount required under any documents governing the issuance of outstanding bonds.
- Paragraph (d) requires RDAs, consistent with the legislative intent declared in Section 34167(a), to preserve all of their assets, minimize all of their liabilities, and preserve all of their records.
- Paragraph (f) obligates RDAs to take all reasonable measures to avoid triggering an event of default under any enforceable obligations.

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<sup>6</sup> In accordance with Section 34169(g), the Agency’s Board of Directors adopted the Agency’s EOP Schedule during a meeting on September 13, 2011, and the Agency transmitted the adopted EOP Schedule to the State Department of Finance via e-mail on September 13 and to the State Controller and the San Diego County Auditor-Controller via certified mail on September 14. The State Department of Finance did not request a formal review of the EOP Schedule during the applicable three-business-day period under Section 34169(i). Consequently, the Agency has resumed making payments to third parties in accordance with the adopted EOP Schedule.

<sup>7</sup> Section 34167(d), which is an Operative Provision, defines an “enforceable obligation” to include generally all of the following: (1) bonds, including debt service and required reserves and payments; (2) loans of money borrowed by the RDA for a lawful purpose; (3) payments required by the federal government, preexisting obligations to the State or obligations imposed by State law, or legally enforceable payments required in connection with the RDA’s employees; (4) judgments or settlements entered by a court, or binding arbitration decisions; (5) any legally binding and enforceable agreement that is not otherwise void as violating the debt limit or public policy; and (6) agreements necessary for the continued administration or operation of the RDA, such as the purchase or lease of office space, equipment, and supplies, as well as expenses for maintaining insurance coverage.

Depending on the applicable circumstance, these Statutory Responsibilities could be viewed as contradicting the various Statutory Prohibitions described in Part III.B above. Whereas the Statutory Responsibilities are obligatory in nature and compel RDAs to take certain affirmative actions, the Statutory Prohibitions are prohibitory in nature and prevent RDAs from taking a wide variety of actions.

**D. Potential Unwinding of Prior Asset Transfers.**

Section 34167.5 of AB 26, which is an Operative Provision, requires the State Controller to review the activities of RDAs to determine whether an asset transfer occurred after January 1, 2011, between RDAs and their counterpart cities. If an asset transfer occurred during the relevant time period, the State Controller must order the assets to be returned to the affected RDA or its successor agency, if applicable, unless the asset is contractually committed to a third party and except to the extent prohibited by State and federal law. Upon receiving such an order from the State Controller, the affected local agency must, as soon as practicable, reverse the asset transfer and return the applicable assets to the RDA or its successor agency, if applicable. The final sentence of Section 34167.5 states: "The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized."

To date, the Agency has not received any notice from the State Controller in accordance with Section 34167.5. There are potentially valid legal arguments as to why the prior asset transfers from the Agency to the City cannot be unwound at this juncture. A detailed explanation of those legal arguments is outside the scope of this Report.

**CONCLUSION**

This Report is intended to provide an overview of the key aspects of the RDA Bills and the progress of the Litigation. It is anticipated that the Supreme Court will resolve the merits of the Litigation by early January 2012. The legal circumstances surrounding RDAs continue to be very fluid and uncertain. Our Office will monitor any significant developments in the Litigation and will provide updates as may be warranted.

JAN I. GOLDSMITH, GENERAL COUNSEL

By Kevin Reisch  
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Deputy General Counsel

KR:nja  
Attachment (Chronology/Timeline)  
cc: Jay M. Goldstone, Assistant Executive Director  
Janice L. Weinrick, Deputy Executive Director  
RC-2011-33



## ATTACHMENT 1 TO REPORT

### Chronology of Past Events and Timeline of Future Events Regarding Legislation and Litigation Affecting Redevelopment Agencies

(prepared by San Diego City Attorney's Office as of September 26, 2011)

\*Notes: All underlined dates below pertain to pending litigation, in which the redevelopment industry has challenged the validity of the recent State legislation adversely affecting redevelopment agencies throughout the State. Unless otherwise specified, all Section references below are to the California Health and Safety Code, particularly the provisions added as a result of the recent State legislation.

\*\*Table of Definitions/Acronyms (in alphabetical order):

<b>AB</b> = Assembly Bill	<b>EOP Schedule</b> = Enforceable Obligation Payment Schedule
<b>AB 26</b> = ABx1 26 (Elimination Bill)	<b>Legislature</b> = California Legislature (Assembly and Senate)
<b>AB 27</b> = ABx1 27 (Continuation Bill)	<b>RDA Bills</b> = AB 26 and AB 27, collectively
<b>Agency</b> = Redevelopment Agency of the City of San Diego	<b>RDAs</b> = redevelopment agencies
<b>Agency Board</b> = Agency's Board of Directors	<b>RDA Litigants</b> = CRA, League of California Cities, City of Union City, City of San Jose, and John Shirey
<b>City</b> = City of San Diego	<b>SB</b> = Senate Bill
<b>Controller</b> = State Controller	<b>State</b> = State of California
<b>Council</b> = City Council of the City of San Diego	<b>State Litigants</b> = DOF Director, Controller, and Alameda County Auditor-Controller
<b>County Auditor</b> = San Diego County Auditor-Controller	<b>Supreme Court</b> = California Supreme Court
<b>CRA</b> = California Redevelopment Association	
<b>DOF</b> = State Department of Finance	

- **January 10, 2011:** Governor Brown releases proposed State budget for Fiscal Year 2011-12, which, among other things, calls for elimination of all RDAs throughout State
- **February 23, 2011:** DOF releases draft budget "trailer bill" that calls for elimination and dissolution of RDAs; this trailer bill later evolves into two virtually identical draft bills – SB 77 and AB 101
- **March 15-16, 2011:** State Assembly takes several votes on SB 77, which calls for complete elimination of RDAs, effective immediately; two-thirds supermajority is needed to have SB 77 take effect immediately, as opposed to on Jan. 1, 2012; final vote is 53 to 23 in favor of SB 77, which is one vote short of required supermajority; State Senate does not vote on either SB 77 or AB 101
- **Mid-March through Mid-June, 2011:** Legislature continues to draft and consider various legislative proposals that would adversely affect the operations or finances of RDAs, including AB 1250 – Alejo (imposing administrative and fiscal requirements on RDAs), SB 286 – Wright (imposing restrictions on new and amended redevelopment plans and implementation plans, and increasing State's audit rights over RDAs), SB 450 – Lowenthal (imposing restrictions and requirements on use of low-income and moderate-income housing funds by RDAs), and SB 214 – Wolk (allowing legislative bodies of cities and counties to form infrastructure financing districts and issue new debt without voter approval, thereby enabling local jurisdictions to finance economic

development even if RDAs are eliminated); CRA also releases alternative proposal by which RDAs would be granted time extensions, up to aggregate total of 12 years, on life span of their redevelopment project areas by making voluntary contributions to local schools; CRA's proposal is not specifically included in any draft legislation

- **April 28, 2011:** State Legislative Counsel Bureau releases legal opinion concluding that AB 101 violates Section 1(a) of Article XIII A of State Constitution because it seeks to use estimated receipt of \$1.7 billion in Fiscal Year 2011-12 to reimburse State for costs of providing health care and trial court services, rather than to apportion tax revenues to local districts within counties
- **May 16, 2011:** Governor Brown releases revised version of proposed State budget for Fiscal Year 2011-12, which continues to call for elimination of all RDAs throughout State
- **June 15, 2011:** Legislature approves RDA Bills (i.e., AB 26 and AB 27) by simple majority vote, as part of annual State budget package; generally, AB 26 eliminates RDAs as of October 1, 2011, and winds down their operations expeditiously; AB 27 establishes "alternative voluntary redevelopment program" allowing each RDA to continue its operations despite AB 26, in exchange for its counterpart city's commitment to pay significant annual remittances to local county auditor-controller
- **June 28, 2011:** Governor Brown signs RDA Bills after Legislature approves annual State budget acceptable to Governor
- **June 29, 2011:** RDA Bills are filed with California Secretary of State
- **July 18, 2011:** RDA Litigants file Petition for Writ of Mandate directly with Supreme Court, seeking (1) stay against implementation of RDA Bills and (2) complete invalidation of RDA Bills
- **July 18, 2011:** Council approves first reading of AB 27 opt-in ordinance, and Council and Agency Board approve Remittance Agreement by which Agency will provide City with redevelopment funds necessary to pay annual remittance amount to County Auditor under AB 27; Remittance Agreement is executed as of August 2, 2011
- **July 27, 2011:** State Attorney General's Office, on behalf of State Litigants, files opposition to requested stay in Petition for Writ of Mandate
- **July 29, 2011:** RDA Litigants file reply to opposition of State Litigants
- **August 1, 2011:** City enacts AB 27 opt-in ordinance, which involves Council's approval of second reading and Mayor's signature of ordinance; also, City delivers written notice regarding enactment of ordinance to County Auditor, Controller, and DOF
- **August 1, 2011:** City receives DOF's written notice that initial calculation of City's annual remittance amount for Fiscal Year 2011-12 under AB 27 is approximately \$69.2 million, which is approximately \$563,000 less than earlier estimated by CRA
- **August 1, 2011:** California Secretary of State accepts filing of referendum attempting to overturn main portions of AB 27; proponent of referendum (Marko Mlikotin, on behalf of California Alliance to Protect Private Property Rights) must gather approximately 504,000 valid petition signatures by September 27, 2011 in order to qualify referendum for statewide ballot in June 2012; State Attorney General's summary states that, if referendum is successful in statewide vote, then RDAs will no longer be authorized to remain in existence

- **August 11, 2011**: Supreme Court issues original court order, agreeing to hear case, establishing expedited schedule for briefing and oral argument, and granting partial stay against implementation of portion of AB 26 and all of AB 27, pending outcome of litigation on its merits
- **August 15, 2011**: City files appeal of DOF's initial calculation of \$69.2 million annual remittance amount for Fiscal Year 2011-12, seeking reduction of approximately \$13 million
- **August 17, 2011**: Supreme Court, on its own volition (i.e., *sua sponte*), issues amended court order, which adds certain provisions to be left intact despite partial stay; effect of amended order is that operative statutory provisions as to all RDAs include all of Part 1.8 of AB 26 (Sections 34161-34169.5) and Section 34194(b)(2) of AB 27
- **August 22, 2011**: RDA Litigants file motion with Supreme Court, seeking clarification of amended court order to allow RDAs that already enacted AB 27 opt-in ordinance, or wish to enact such ordinance, to become exempt from all of AB 26 despite partial stay; motion includes supporting declaration submitted on behalf of City/Agency
- **August 22, 2011**: Proponent of referendum on AB 27 decides not to pursue referendum any longer, according to news article published in The Sacramento Bee
- **August 29, 2011**: County of Santa Clara files opposition to clarification motion by RDA Litigants
- **August 29, 2011**: Deadline by which each RDA must either adopt EOP Schedule under Section 34169(g) of AB 26, or must cease making payments on "enforceable obligations" (except for bonded indebtedness) unless and until EOP Schedule is adopted, subject to potential exceptions in Sections 34167(f) and 34169(a)-(d), (f); EOP Schedule must identify all enforceable obligations of RDA as well as monthly payments to be made during balance of calendar year 2011; EOP Schedule is subject to review by DOF for at least 3 business days, plus potentially 10 additional calendar days; DOF has authority to return EOP Schedule to RDA for consideration of requested modifications, and any modified version of EOP Schedule must be re-submitted to DOF for its review
- **September 1, 2011**: RDA Litigants file reply to opposition of County of Santa Clara
- **September 8, 2011**: Legislature approves SB 450, which imposes restrictions and requirements on use of low-income and moderate-income housing funds by RDAs; Legislature also approves SBx1 8, which contains clarifying amendments to RDA Bills and some other provisions related to affordable housing funds; these two bills have been presented to Governor Brown and are awaiting his signature
- **September 9, 2011**: State Litigants file "return" with Supreme Court, in opposition to merits of Petition filed by RDA Litigants
- **September 13, 2011**: Agency Board adopts EOP Schedule, and Agency transmits EOP Schedule to DOF on September 13 and Controller and County Auditor on September 14; DOF does not request formal review of EOP Schedule during initial 3-business-day period, so Agency resumes making payments to third parties in accordance with adopted EOP Schedule
- **September 14, 2011**: Supreme Court issues brief order denying clarification motion filed earlier by RDA Litigants
- **September 15, 2011**: Preliminary deadline for DOF to resolve each jurisdiction's timely appeal of annual remittance amount for Fiscal Year 2011-12; DOF can unilaterally extend resolution date until October 15, 2011

- **September 23, 2011**: RDA Litigants file reply brief with Supreme Court
- **September 30, 2011**: Deadline for filing of any application for amicus curiae, “friend of the court” brief with Supreme Court, accompanied by copy of proposed brief
- **September 30, 2011**: Deadline by which each RDA must prepare preliminary draft of initial Recognized Obligation Payment Schedule under Section 34169(h), identifying payments on “enforceable obligations” to be made by RDA during first six months of calendar year 2011
- **October 7, 2011**: Deadline for filing of reply to any amicus curiae brief filed with Supreme Court
- **October 15, 2011**: Extended deadline for DOF’s resolution of each jurisdiction’s appeal of annual remittance amount for Fiscal Year 2011-12
- **October through December, 2011**: Anticipated time frame during which Supreme Court will schedule oral argument to address merits of Petition filed by RDA Litigants
- **Early January, 2012**: Anticipated time frame for Supreme Court’s issuance for written ruling on merits of Petition filed by RDA Litigants; if Supreme Court upholds validity of AB 27, then City must make annual remittance payments to County Auditor under AB 27
- **January 15, 2012**: Deadline for City’s payment of first of two equal installments of Fiscal Year 2011-12 remittance amount to County Auditor under AB 27; this deadline is subject to extension by Supreme Court, depending on when it issues written ruling on merits of Petition
- **May 15, 2012**: Deadline for City’s payment of second installment of Fiscal Year 2011-12 remittance amount to County Auditor under AB 27
- **January 15 and May 15 of 2012 and each ensuing calendar year**: Deadlines for City’s payment of first and second installments, respectively, of annual remittance amount to County Auditor under AB 27; CRA’s preliminary estimate of City’s annual remittance amount in each future year is \$16.4 million, subject to potential “surcharge” or increase for any new indebtedness incurred by Agency and also subject to potential future changes to AB 27