



## Legislation Text

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**File #:** 09-0138, **Version:** 1

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Recommendation to authorize City Manager to notify the Los Angeles County Auditor-Controller that the City of Long Beach and its Redevelopment Agency (Agency) intend to fund the payment required by Section 33685(d) of the California Health and Safety Code using the Agency's tax increment revenue and housing set-aside in the amount of \$6,070,996. (Citywide)

On September 30, 2008, Governor Schwarzenegger signed Assembly Bill (AB) 1389, a budget trailer bill requiring redevelopment agencies statewide to pay a collective \$350 million into the Educational Revenue Augmentation Fund (ERAF). The bill directed the California Director of Finance (DOF) to allocate the \$350 million amongst the State's redevelopment agencies based on a formula of gross and net tax increment. On November 12, 2008, the DOF provided the Agency with its required Fiscal Year 2008-09 (FY09) ERAF payment: \$6,070,996. This payment is due to be made by May 10, 2009. However, AB 1389 also set a deadline of March 1, 2009 for all agencies to state their intentions on making this payment.

Redevelopment agencies have options for making the ERAF payment if certain findings are made. AB 1389 allows a redevelopment agency's host government (i.e., a city or county) to make the ERAF payment. Or, redevelopment agencies may use up to 50 percent of the current fiscal year's low- and moderate-income housing set-aside funds to make the ERAF payment if the Agency finds that there are insufficient funds to meet the ERAF obligation. The housing set-aside funds used to make the ERAF payment would need to be repaid within ten-years.

In the event that a redevelopment agency, or its host government, cannot or does not make its full ERAF payment by the May 10, 2009 deadline, that agency is subject to what is referred to as the "death penalty" until those payments are made. Specifically, an agency cannot encumber funds or expend money derived from any source except to pay previously issued bonds or other financial obligations; make contractual pass-through payments; or expend an amount on administration exceeding 75 percent of the average monthly amount spent for that purpose in the preceding fiscal year. This penalty would essentially make it impossible for the Agency to implement its redevelopment program in any of its redevelopment project areas. In other words, all redevelopment activities would cease. The penalties are not lifted until the Los Angeles County Auditor-Controller certifies to the DOF that the required ERAF payment has been made in full by the Agency or on the Agency's behalf.

On January 21, 2008, the Long Beach Housing Development Company (LBHDC) Board of Directors were informed about the proposed use of a portion of housing set-aside funds to make the ERAF payment. They voted to oppose the use of set-aside funds because it would have an adverse impact on the Board's ability to carry out its City Council-mandated mission to provide affordable housing for low- and moderate-income residents of the City of Long Beach.

On February 2, 2009, the Agency took an action recommending that the ERAF payment be allocated in proportion to the amount of tax increment revenue to be received by each project area and the

Low- and Moderate-Income Housing Set-Aside Fund during FY09. Pursuant to AB 1389, the Agency also made a finding that there are insufficient other moneys to make the ERAF payment without borrowing from the Housing Set-Aside Fund. The housing set-aside share of the ERAF payment, an estimated \$1,214,199, will be repaid within ten-years of May 10, 2009, the date by which the ERAF payment must be remitted to the County Auditor-Controller.

Based on the current estimated FY09 tax increment, the Agency recommended that the ERAF payment be allocated as follows:

Central	\$1,118,427
Downtown	1,111,743
Los Altos	38,866
North	2,068,381
Poly High	41,328
West Beach	93,592
WLBI	384,460
Housing Set-Aside	<u>1,214,199</u>
<b>Total Project Areas</b>	<b><u>\$6,070,996</u></b>

This letter was reviewed by Assistant City Attorney Heather Mahood on January 20, 2009, and by Budget Management Officer Victoria Bell on January 22, 2009.

City Council action is requested on February 10, 2009, in order to meet the March 1, 2009, deadline set by AB 1389 to inform the County Auditor-Controller of how the Agency intends to fund its ERAF obligation.

There is no fiscal impact to the General Fund. The state-mandated payment will reduce FY09 tax increment revenue to the Development Services Department Redevelopment Fund (RD) by \$4,856,797 and to the Community Development Department Housing Development Fund (SR 135) by \$1,214,199, for a total reduction of \$6,070,996. Future tax increment revenues will be jeopardized if the required payment is not made.

Approve recommendation.

CRAIG BECK  
DIRECTOR OF DEVELOPMENT SERVICES

DENNIS J. THYS  
DIRECTOR OF COMMUNITY DEVELOPMENT

NAME  
TITLE

APPROVED:

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PATRICK H. WEST  
CITY MANAGER

