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PERSPECTIVE

JEDI proposal seeks to restore balance

By Bill Ihrke

As one of the drafters of the Jobs and Education Development Initiative (JEDI), I was asked to provide a summary of the initiative and brief opinion of its merits. I'll start with the latter.

Californians, particularly younger generations, are embracing the revitalization of existing neighborhoods. Development trends show a preference for improving existing infrastructure, building dynamic infill projects, promoting "live-work" areas and transit-oriented districts, and including affordable housing with market rate and mixed-use neighborhoods. All of this is good news because these trends follow a clear public policy preference for this type of land use, not only to further "smart planning" principles, but also to spur economic growth, create jobs and increase the overall tax base.

The bad news, however, is that in 2011 the state eliminated the primary and most effective means through which California cities and counties implemented projects to achieve these important policy goals. The local funding source specifically dedicated for these purposes ended once redevelopment agencies were dissolved as part of the state's plan to balance its fiscal year 2011-12 budget. There are now no local agencies that have a comprehensive set of powers to further these specific purposes.

JEDI seeks to restore the ability for local communities to have a comprehensive set of powers and financing capabilities to further these purposes, but only if a city, county, or city and county votes to use that public agency within its respective jurisdiction.

Specifically, JEDI would repeal the provisions (Part 1.8 of Division 24 of the Health and Safety Code) that dissolved former redevelopment agencies and replace those provisions with enabling legislation for a city, county, or city and county that had a redevelopment agency prior to being dissolved in February 2012, to reestablish the redevelopment agency — referred to in the initiative as a "JEDI" agency.

The city, county, or city and county would need to follow a public procedure to adopt a resolution and make specific findings that all prior redevelopment plans and amendments were lawfully adopted before June 28, 2011, the date on which the governor signed Assembly Bills 26 and 27 from the 2011-12 First Extraordinary Session of the Legislature. AB 26 "froze" and then dissolved redevelopment agencies, and AB 27 "unfroze" and prevented dissolution of redevelopment agencies if payments were made to help fund the state's budget shortfall. Redevelopment agencies never had the chance to stay in business under AB 27 because the state Supreme Court, in *Community Redevelopment Association v. Matosantos*, 53 Cal.4th 231 (2011), held AB 27 was unconstitutional under Proposition 22 (Nov. 2010). Ironically, California voters approved Prop. 22 to preserve local control over redevelopment funds. Despite the voters' approval, however, all redevelopment agencies dissolved Feb. 1, 2012, as a result of AB 26 and the *Matosantos* decision.

JEDI generally would reactivate the Community Redevelopment Law (Part 1 of Division 24 of the Health and Safety Code), with a few modifications. Among the



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Justice Carol Corrigan, right, during a proceeding at the state Supreme Court in San Francisco, Nov. 10, 2011, on the state's authority to eliminate redevelopment agencies.

other powers and obligations that would be reactivated is the ability to use tax increment financing. Under the tax increment financing system, the assessed value of property within a designated redevelopment project area is frozen when the redevelopment plan is adopted. For the duration of the redevelopment plan, a redevelopment agency is entitled to some of the property taxes — known as "tax increment" — that results from the growth in property taxes levied after the year in which the redevelopment plan was adopted. A significant portion of the tax increment allocated to redevelopment agencies are nevertheless paid over to schools and other taxing agencies. The theory behind this form of financing is to have a dedicated source of funding to secure debt for construction projects and economic development programs, without having to increase any tax rate on any taxpayer.

Under JEDI, the tax increment "base year" for those redevelopment plans existing before June 28, 2011, would remain the same, but the JEDI agency could collect tax increment only on a going-forward basis, starting from the date that the city, county, or city and county adopted the resolution to reestablish the redevelopment agency. There is no "make-up" payment for what would have been tax increment covering the time of redevelopment dissolution. Moneys that have been distributed to other taxing entities under the dissolution period are not to be recaptured if an agency is reestablished. Furthermore, local education agencies (which includes K-12 schools) would receive from this tax increment an amount equal to 30 percent of that local education agency's base year property tax, on a going-forward basis for as long as the JEDI agency had the authority to receive tax increment. This amount would be in addition to other property taxes that the local education agencies receive.

The definition of "economic blight" — part of the blight-finding analysis that must be met as a precursor to establishing a redevelopment project area — would expressly include unemployment rates in a locality that exceed the federal or statewide average. The intent behind this addition is to encourage job creation by allowing high unemployment rates to be a factor when establishing a redevelopment project area. This one factor, however, cannot be determinative of whether "blight" exists in a particular locality. The entire blight-finding analysis would need to be satisfied for newly created project areas

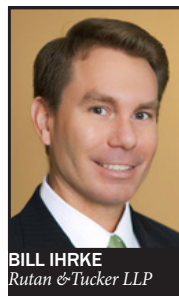
and the adoption of redevelopment plans.

Time limits in the Community Redevelopment Law would apply to newly adopted redevelopment plans, including time limits on the ability to exercise eminent domain and the receipt of tax increment. For JEDI agencies, which follow the proper procedure to reactivate redevelopment plans existing prior to June 28, 2011, 40 additional years would be added to those redevelopment plans, limits on the amount of bonded indebtedness that an agency may incur in total and at any one time may be removed by ordinance, and the timeframe to repay bonded indebtedness extends as long as necessary to repay that bonded indebtedness. The 12-year deadline to exercise eminent domain may be restarted from the date of adoption of the resolution to reestablish the redevelopment agency, but only if specific findings can be made that significant blight remains and eminent domain power must be available to remediate that blight. All constitutional limitations to the use of eminent domain would apply to JEDI agencies, including the general prohibition adopted by California voters in approving Proposition 99 (June 2008) of using eminent domain to acquire owner-occupied residences for resale to a private person.

JEDI gives local agencies the authority to determine how much tax increment should be dedicated towards the purpose of increasing, improving, and preserving affordable housing. A local agency must dedicate 10 percent of tax increment received by the redevelopment agency, but can dedicate more if it desires. All moneys dedicated for affordable housing must be placed in a separate fund, and all interest earned from money in that fund must also be used for affordable housing purposes. The initiative grants additional flexibility for redevelopment agencies to transfer these funds to another public agency, including a housing authority, within the same or an adjoining county upon the adoption of a resolution that such a transfer would benefit a project area. An agreement to transfer funds must make a provision for the allocation of credit towards meeting housing needs as determined under the state-mandated process for accommodating regional housing needs.

Authority to fund publicly owned improvements with tax increment would be reinstated, so long as specific findings are made that use of tax increment is necessary and will further the elimination of blight or the provision of affordable housing.

The same reason that fueled a need for local public agencies with tax increment financing authority back in the mid-twentieth century fuels the need for them again. Construction projects in aging areas of cities and counties not only create jobs but promote good land use priorities. Areas once dangerous become safer. Areas once abandoned become vibrant. JEDI seeks to bring back what worked for so many communities, for so many years, to achieve these vital public policy goals.



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