

AMENDED IN ASSEMBLY JUNE 27, 2012

AMENDED IN ASSEMBLY JUNE 20, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 25, 2012

AMENDED IN SENATE APRIL 30, 2012

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1156

Introduced by Senator Steinberg

February 22, 2012

An act to add Part 1.86 (commencing with Section 34191.1) to Division 24 of the Health and Safety Code, and to amend Section 21094.5 of the Public Resources Code, relating to economic development, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1156, as amended, Steinberg. Sustainable Communities Investment Authority.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies. Existing law requires that the successor agency, among other things, wind down the affairs of the former redevelopment agency and dispose of assets and properties of the former redevelopment agency, as directed by an oversight board.

Existing law provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the state.

This bill would authorize the legislative bodies of the city and county of a sustainable communities investment area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would ~~authorize~~ *require* the authority to adopt a plan for a sustainable communities investment area and *authorize the authority* to include in that plan a provision for the receipt of tax increment funds provided that specified requirements are met.

The bill would establish prequalification requirements for construction contracts that will receive more than \$1,000,000 from the Sustainable Communities Investment Authority and would require the Department of Industrial Relations to monitor and enforce compliance with prevailing wage requirements for specified projects. The bill would deposit moneys received by the department from developer charges related to the costs of monitoring and enforcement in the State Public Works Enforcement Fund. By depositing a new source of revenue in the State Public Works Enforcement Fund, a continuously appropriated special fund, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 1.86 (commencing with Section 34191.1) is
2 added to Division 24 of the Health and Safety Code, to read:

3
4 ~~PART 1.86. ECONOMIC DEVELOPMENT AND HOUSING~~
5 ~~SUSTAINABLE COMMUNITIES INVESTMENT PROGRAM~~

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 34191.1. (a) The Legislature finds and declares that better
10 economic development patterns in California can contribute to
11 greater economic growth by creating good jobs, reducing commuter
12 times for employees, reducing the costs of public infrastructure,
13 and reducing energy consumption. Better development patterns
14 may also result in increased options in the type of housing

1 available, more affordable housing, and a reduction in a
2 household's combined housing and transportation costs.

3 (b) The construction industry has been one of the sectors hardest
4 hit by the economic downturn of recent years. Creating incentives
5 for construction can help restore construction and permanent jobs,
6 which are essential for a restoration of prosperity.

7 (c) Economic development patterns can also help California
8 attain some of its long-term strategic environmental objectives
9 including reduced air pollution, greater water conservation, reduced
10 energy consumption, and increased farmland and habitat
11 preservation.

12 (d) Implementation of the growth plans identified by the
13 metropolitan planning organizations in their sustainable
14 communities strategies, and in particular the development of areas
15 identified for transit priority projects, is essential if California is
16 to achieve the multiple benefits that would result from economic
17 development. Implementation of growth plans in transit priority
18 areas requires redevelopment of existing developed areas.

19 (e) In addition to economic pressures from the current recession,
20 development of transit priority projects remains challenging.
21 Infrastructure is often old and inadequate. Sites may suffer from
22 contamination that is expensive to remediate. The high construction
23 costs in urban areas, particularly for multifamily dwellings, create
24 an additional challenge. For these reasons, it is critical to restructure
25 and refocus redevelopment in California to assist in achievement
26 of these multiple benefits.

27 (f) At the same time, California cannot afford a redevelopment
28 program that causes schools to lose revenue at a time when
29 investing in education is also key to the state's economic
30 prosperity. A growth plan for the state consistent with regional
31 sustainable communities strategies must also provide that schools
32 are able to play their full role in achieving the future of California.

33 (g) The elimination of redevelopment agencies has resulted in
34 the loss of approximately one billion dollars (\$1,000,000,000)
35 annually in low- and moderate-income housing funds for
36 communities throughout the state. Communities need alternative,
37 permanent sources of revenue to support the continued production
38 of affordable housing units. ~~To this end, it is the intent of the~~
39 ~~Legislature to preserve the provisions of the Community~~
40 ~~Redevelopment Law, as it was proposed to have been amended~~

1 by Senate Bill 450 of the 2011–12 Regular Session, to increase,
2 improve, and preserve affordable housing through a new economic
3 development strategy for the state.

4 (h) The Legislature finds that a comprehensive strategy for the
5 long-term economic development of the state must encourage the
6 creation of good jobs and workforce skills needed to attract and
7 retain a high-wage workforce, in addition to public infrastructure
8 requirements. Public investments in human capital are as vital to
9 the long-term growth of the state’s economy as investments in
10 physical capital.

11 34191.2. For purposes of this part, “authority” or “Sustainable
12 Communities Investment Authority” means the entity formed under
13 Chapter 2 (commencing with Section 34191.10).

14
15 CHAPTER 2. SUSTAINABLE COMMUNITIES INVESTMENT
16 AUTHORITY
17

18 34191.10. (a) A Sustainable Communities Investment
19 Authority may be formed after July 1, 2012, to carry out, to the
20 extent consistent with this part, and shall comply with the
21 provisions of the Community Redevelopment Law (Part 1.8
22 (commencing with Section 33000)) and this part. The authority
23 shall be deemed to be an “agency” pursuant to Section 33003. An
24 authority may be formed as follows:

25 (b) *The authority shall be deemed to be an “agency” pursuant*
26 *to Section 33003 and shall have all the rights, responsibilities,*
27 *and obligations of an agency, except that a determination shall*
28 *not be required to be made regarding blight within the sustainable*
29 *communities investment area, and an action shall not be required*
30 *to be taken for the elimination of blight in connection with the*
31 *creation of a plan for a sustainable communities investment area.*

32 (c) *An authority formed pursuant to this part shall adopt a plan*
33 *for a sustainable communities investment area pursuant to this*
34 *section.*

35 (d) *A sustainable communities investment plan shall terminate*
36 *on a specified date not to exceed 30 years from the date of the first*
37 *issuance of bond indebtedness by the authority.*

38 (e) *An authority may be formed as follows:*

39 (1) ~~If the~~ *A sustainable communities investment area is within*
40 *an incorporated area may be formed in any of the following ways:*

1 (A) The legislative bodies of the city and county representing
2 the geographic territory of a sustainable communities investment
3 area may form a Sustainable Communities Investment Authority
4 pursuant to this part by entering into a joint powers authority under
5 Chapter 5 (commencing with Section 6500) of Title 1 of the
6 Government Code *to establish the parameters of the proposed*
7 *economic development within a proposed sustainable communities*
8 *investment area.*

9 (B) ~~The~~ A legislative body of ~~the~~ a city ~~forms~~ may form the
10 governing board and ~~establishes~~ *establish* the parameters of the
11 proposed economic development within a proposed sustainable
12 communities investment area provided the economic development
13 parameters are approved by the county.

14 (C) A city and county may appoint a governing board for a
15 sustainable communities investment area comprised of three
16 members appointed by the city with geographic jurisdiction and
17 two appointed by the county with geographic jurisdiction.

18 ~~(C) A governing board is appointed for a sustainable~~
19 ~~communities investment area: three members shall be appointed~~
20 ~~by the city with geographic jurisdiction and two by the county~~
21 ~~with geographic jurisdiction.~~

22 (D) ~~The legislative body of the city appoints the governing board~~
23 ~~and designates~~ ~~If~~ a sustainable communities investment area
24 ~~existing~~ *consists* of a single project and ~~restricts the authority~~
25 ~~so that~~ 100 percent of tax increment revenue is invested in the
26 project. ~~Designation of the sustainable communities investment~~
27 ~~area shall be subject to county approval, then a legislative body of~~
28 ~~a city may appoint a governing board, subject to county approval~~
29 ~~of the designation of the sustainable communities investment area.~~

30 (2) If the sustainable communities investment area is within an
31 unincorporated area, the ~~authority~~ *Sustainable Communities*
32 *Investment Authority* may be formed by the ~~county~~ board of
33 supervisors ~~or by the board of supervisors of a~~ *of a county or city*
34 and county.

35 (b) ~~The~~ A governing board *formed pursuant to this section* shall
36 consist of five members. The members of any governing board
37 formed pursuant to this part shall be appointed for four-year terms
38 and shall only be removed by the appointing authority for cause.
39 The initial appointees to the governing board shall serve either
40 two-year or four-year terms and shall draw their terms by lot.

1 ~~(e) The authority may enter into financial and other agreements~~
 2 ~~with community colleges, K-12 school districts, and private~~
 3 ~~businesses to facilitate the development and operation of articulated~~
 4 ~~career technical education pathways, as specified in Section 88532~~
 5 ~~of the Education Code.~~

6
 7 CHAPTER 3. ~~FINANCING~~ SUSTAINABLE COMMUNITIES
 8 INVESTMENT AREAS
 9

10 34191.15. ~~An authority formed pursuant to this part may adopt~~
 11 ~~a plan for a sustainable communities investment area pursuant to~~
 12 ~~this section. Notwithstanding any other provision of this division,~~
 13 ~~a determination shall not be required to be made regarding blight~~
 14 ~~within the sustainable communities investment area, and an action~~
 15 ~~shall not be required to be taken for the elimination of blight in~~
 16 ~~connection with the creation of a plan for a sustainable~~
 17 ~~communities investment area. The plan shall terminate on a~~
 18 ~~specified date not to exceed 30 years from the date of the first~~
 19 ~~issuance of bond indebtedness by the authority. A sustainable~~
 20 ~~communities investment area shall include only the following~~
 21 ~~areas:~~

22 (a) For areas within the geographic boundaries of a metropolitan
 23 planning organization where a sustainable communities strategy
 24 has been adopted by the metropolitan planning organization, and
 25 the State Air Resources Board, pursuant to subparagraph (H) of
 26 paragraph (2) of subdivision (b) of Section 65080 of the
 27 Government Code, has accepted the metropolitan planning
 28 organization’s determination that the sustainable communities
 29 strategy would, if implemented, achieve the greenhouse gas
 30 emission reduction targets:

31 (1) Transit priority areas *are areas* where a transit priority
 32 project, as defined in Section 21155 of the Public Resources Code,
 33 may be constructed, provided that if the sustainable communities
 34 investment area is based on proximity to a planned major transit
 35 stop or a high-quality transit corridor, the stop or the corridor must
 36 be scheduled to be completed within the planning horizon
 37 established by Section 450.322 of Title 23 of the Code of Federal
 38 Regulations. For purposes of this paragraph, a transit priority area
 39 may include a military base reuse plan that meets the definition of

1 a transit priority area and it may include a contaminated site within
2 a transit priority area.

3 (2) Areas that are small walkable communities, as defined in
4 paragraph (4) of subdivision (e) of Section 21094.5 of the Public
5 Resources Code, except that small walkable communities may
6 also be designated in a city that is within the area of a metropolitan
7 planning organization. No more than one small walkable
8 community project area shall be designated within a city.

9 (b) Sites that have land use approvals, covenants, conditions
10 and restrictions, or other effective controls restricting the sites to
11 clean energy manufacturing, and that are consistent with the *use,*
12 *designation, density, building intensity, and applicable policies*
13 *specified for the sustainable communities investment area in the*
14 *sustainable communities strategy, if those sites are within the*
15 *geographic boundaries of a metropolitan planning organization.*
16 Clean energy manufacturing shall consist of the manufacturing of
17 any of the following:

18 (1) Components, parts, or materials for the generation of
19 renewable energy resources.

20 (2) Equipment designed to make buildings more energy efficient
21 or the component parts thereof.

22 (3) Public transit vehicles or the component parts thereof.

23 (4) Alternative fuel vehicles or the component parts thereof.

24 ~~34191.16. (a) Solely for purposes of Section 16 of Article XVI~~
25 ~~of the California Constitution, a~~ A plan for a sustainable
26 communities investment area adopted pursuant to Section 34191.15
27 may include a provision for the receipt of tax increment funds
28 according to Section 33670, provided that the local government
29 with land use jurisdiction has adopted all of the following:

30 (1) A sustainable parking standards ordinance that restricts
31 parking in transit priority project areas to encourage transit use to
32 the greatest extent feasible.

33 (2) An ordinance creating a jobs plan. All entities receiving
34 financial support from the authority shall, at a minimum, require
35 that any and all agreements approved by the authority include a
36 jobs plan, which shall describe how the project will *further* create
37 construction careers that pay prevailing wages, living wage
38 permanent jobs, and a *create* program for community outreach,
39 local hire, and job training. This plan shall also describe the project
40 developer's commitment to offer jobs to disadvantaged California

1 residents, including veterans of the Iraq and Afghanistan wars,
2 people with a history in the criminal justice system, and
3 single-parent families.

4 (3) For transit priority areas and small walkable communities
5 within a metropolitan planning organization, a plan consistent with
6 the use designation, density, building intensity, and applicable
7 policies specified for the sustainable communities investment area
8 in the sustainable communities strategy and that, for new residential
9 construction, provides a density of at least 20 dwelling units per
10 net acre and for nonresidential uses, provides a minimum floor
11 area ratio of 0.75.

12 (4) Within small walkable communities outside a metropolitan
13 planning organization, a plan for new residential construction that
14 provides a density of at least 20 dwelling units per net acre and,
15 for nonresidential uses, provides a minimum floor area ratio of
16 0.75.

17 (b) For areas referred to in paragraph (4) of subdivision (a), the
18 authority shall obtain the metropolitan planning organization's
19 concurrence that the plan is consistent with the use designation,
20 density, building intensity, and applicable policies for the project
21 area in the sustainable communities strategy.

22 (c) For purposes of Section 16 of Article XVI of the California
23 Constitution and in the event a tax increment financing provision
24 is included pursuant to subdivision (a), the terms "district" and
25 "affected taxing entity" shall exclude a school district and special
26 districts.

27 ~~34191.17. The authority shall approve any bond financing~~
28 ~~under this division.~~

29 34191.18. A state or local public pension fund system
30 authorized by state law or local charter, respectively, including,
31 but not limited to, the Public Employees' Retirement System, the
32 State Teachers' Retirement System, a system established under
33 the County Employees Retirement Law of 1937, Chapter 3
34 (commencing with Section 31450) of Part 3 of Division 4 of Title
35 3 of the Government Code, or an independent system, may invest
36 capital in the public infrastructure projects and private commercial
37 and residential developments undertaken by an authority.

38 34191.19. (a) An authority may exercise the full powers
39 granted under Chapter 2.8 (commencing with Section 53395) of
40 Part 1 of Division 2 of Title 5 of the Government Code and the

1 Marks-Roos Local Bond Pooling Act of 1985 (Article 4
2 (commencing with Section 6584) of Chapter 5 of Division 7 of
3 Title 1 of the Government Code).

4 (b) An authority may implement a local transactions and use
5 tax under Part 1.6 (commencing with Section 7251) of Division 2
6 of the Revenue and Taxation Code, except that the resolution
7 authorizing the tax may designate the use of the proceeds of the
8 tax.

9 (c) An authority may issue bonds paid for with authority
10 proceeds, which shall be deemed to be special funds to be expended
11 by the authority for the purposes of carrying out this part.

12
13 CHAPTER 4. PREQUALIFICATION REQUIREMENTS

14
15 34191.20. All construction contracts in excess of one million
16 dollars (\$1,000,000) on projects that will receive more than one
17 million dollars (\$1,000,000) from the Sustainable Communities
18 Investment Authority, including projects undertaken by private
19 developers, shall comply with the following prequalification
20 process:

21 (a) The authority shall require that each prospective bidder
22 complete and submit to the authority a standardized questionnaire
23 and financial statement in a form specified by the authority that
24 includes a complete statement of the prospective bidder's financial
25 ability and experience in performing public works. The
26 questionnaire and financial statement shall be verified under oath
27 by the bidder in the manner in which civil pleadings in civil actions
28 are verified. The questionnaires and financial statements shall not
29 be public records and shall not be open to public inspection.

30 (b) The authority shall adopt and apply a uniform system of
31 rating bidders on the basis of the completed questionnaires and
32 financial statements, in order to determine the size of the contracts,
33 if any, upon which each bidder shall be deemed qualified to bid.

34 (c) The questionnaire described in subdivision (a) and the
35 uniform system of rating bidders described in subdivision (b) shall
36 cover, at a minimum, the issues covered by the standardized
37 questionnaire and model guidelines for rating bidders developed
38 by the Department of Industrial Relations pursuant to subdivision
39 (a) of Section 20101 of the Public Contract Code.

1 (d) For purposes of this section, bidders shall include all
2 subcontractors performing work on a contract in excess of 3 percent
3 of the total cost.

4 (e) A bid shall not be accepted from any person or entity who
5 is required to submit a completed questionnaire and financial
6 statement for prequalification pursuant to subdivision (a) but has
7 not done so by the deadline set by the authority or who has not
8 been prequalified by the authority prior to the deadline for
9 submission of bids.

10 (f) This section shall not prevent an authority from establishing
11 additional prequalification requirements.

12 34191.21. (a) (1) The Department of Industrial Relations shall
13 monitor and enforce compliance with prevailing wage requirements
14 for any project paid for in whole or part out of public funds, within
15 the meaning of subdivision (b) of Section 1720 of the Labor Code
16 that include funds of a Sustainable Communities Investment
17 Authority and shall charge each awarding body or developer for
18 the reasonable and directly related costs of monitoring and
19 enforcing compliance with the prevailing wage requirements on
20 each project.

21 (2) All moneys received by the department pursuant to this
22 section shall be deposited in the State Public Works Enforcement
23 Fund created by Section 1771.3 of the Labor Code.

24 (b) Paragraph (1) of subdivision (a) shall not apply to any project
25 paid for in whole or part out of public funds if the awarding body
26 or developer has entered into a collective bargaining agreement
27 that binds all of the contractors performing work on the project
28 and includes a mechanism for resolving disputes about the payment
29 of wages.

30 SEC. 2. Section 21094.5 of the Public Resources Code is
31 amended to read:

32 21094.5. (a) (1) If an environmental impact report was
33 certified for a planning level decision of a city or county, the
34 application of this division to the approval of an infill project shall
35 be limited to the effects on the environment that (A) are specific
36 to the project or to the project site and were not addressed as
37 significant effects in the prior environmental impact report or (B)
38 substantial new information shows the effects will be more
39 significant than described in the prior environmental impact report.

1 A lead agency's determination pursuant to this section shall be
2 supported by substantial evidence.

3 (2) An effect of a project upon the environment shall not be
4 considered a specific effect of the project or a significant effect
5 that was not considered significant in a prior environmental impact
6 report, or an effect that is more significant than was described in
7 the prior environmental impact report if uniformly applicable
8 development policies or standards adopted by the city, county, or
9 the lead agency, would apply to the project and the lead agency
10 makes a finding, based upon substantial evidence, that the
11 development policies or standards will substantially mitigate that
12 effect.

13 (b) If an infill project would result in significant effects that are
14 specific to the project or the project site, or if the significant effects
15 of the infill project were not addressed in the prior environmental
16 impact report, or are more significant than the effects addressed
17 in the prior environmental impact report, and if a mitigated negative
18 declaration or a sustainable communities environmental assessment
19 could not be otherwise adopted, an environmental impact report
20 prepared for the project analyzing those effects shall be limited as
21 follows:

22 (1) Alternative locations, densities, and building intensities to
23 the project need not be considered.

24 (2) Growth inducing impacts of the project need not be
25 considered.

26 (c) This section applies to an infill project that satisfies both of
27 the following:

28 (1) The project satisfies any of the following:

29 (A) Is consistent with the general use designation, density,
30 building intensity, and applicable policies specified for the project
31 area in either a sustainable communities strategy or an alternative
32 planning strategy for which the State Air Resources Board,
33 pursuant to subparagraph (H) of paragraph (2) of subdivision (b)
34 of Section 65080 of the Government Code, has accepted a
35 metropolitan planning organization's determination that the
36 sustainable communities strategy or the alternative planning
37 strategy would, if implemented, achieve the greenhouse gas
38 emission reduction targets.

39 (B) Consists of a small walkable community project located in
40 an area designated by a city for that purpose.

1 (C) Is located within the boundaries of a metropolitan planning
2 organization that has not yet adopted a sustainable communities
3 strategy or alternative planning strategy, and the project has a
4 residential density of at least 20 units per net acre or a floor area
5 ratio of at least 0.75.

6 (2) Satisfies all applicable statewide performance standards
7 contained in the guidelines adopted pursuant to Section 21094.5.5.

8 (d) This section applies after the Secretary of the Natural
9 Resources Agency adopts and certifies the guidelines establishing
10 statewide standards pursuant to Section 21094.5.5.

11 (e) For the purposes of this section, the following terms mean
12 the following:

13 (1) “Infill project” means a project that meets the following
14 conditions:

15 (A) Consists of any one, or combination, of the following uses:

16 (i) Residential.

17 (ii) Retail or commercial, where no more than one-half of the
18 project area is used for parking.

19 (iii) A transit station.

20 (iv) A school.

21 (v) A public office building.

22 (B) Is located within an urban area on a site that has been
23 previously developed, or on a vacant site where at least 75 percent
24 of the perimeter of the site adjoins, or is separated only by an
25 improved public right-of-way from, parcels that are developed
26 with qualified urban uses.

27 (2) “Planning level decision” means the enactment or
28 amendment of a general plan, community plan, specific plan, or
29 zoning code.

30 (3) “Prior environmental impact report” means the
31 environmental impact report certified for a planning level decision,
32 as supplemented by any subsequent or supplemental environmental
33 impact reports, negative declarations, or addenda to those
34 documents.

35 (4) “Small walkable community project” means a project that
36 is located in a small walkable community project area. A small
37 walkable community project area means an area within an
38 incorporated city that is not within the boundary of a metropolitan
39 planning organization and meets all the following requirements:

1 (A) Has a project area of approximately one-quarter-mile
2 diameter of contiguous land completely within the existing
3 incorporated boundaries of the city.

4 (B) Has a project area that includes a residential area adjacent
5 to a retail downtown area.

6 (C) The project area has an average net density of at least eight
7 dwelling units per net acre or a floor area ratio for retail or
8 commercial use of not less than 0.50. For purposes of this
9 subparagraph: (i) “Floor area ratio” means the ratio of gross
10 building area (GBA) of development, exclusive of structured
11 parking areas, proposed for the project divided by the total net lot
12 area (NLA); (ii) “gross building area” means the sum of all finished
13 areas of all floors of a building included within the outside faces
14 of its exterior walls; and (iii) “net lot area” means the area of a lot
15 excluding publicly dedicated land, private streets that meet local
16 standards, and other public use areas as determined by the local
17 land use authority.

18 (5) “Urban area” includes either an incorporated city or an
19 unincorporated area that is completely surrounded by one or more
20 incorporated cities that meets both of the following criteria:

21 (A) The population of the unincorporated area and the
22 population of the surrounding incorporated cities equal a population
23 of 100,000 or more.

24 (B) The population density of the unincorporated area is equal
25 to, or greater than, the population density of the surrounding cities.