AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1080

Introduced by Assembly Member Alejo
(Principal coauthors: Assembly Members Mullin and V. Manuel Pérez)
(Coauthors: Assembly Members Brown, Ian Calderon, *Chau*, Perea, Stone, and Williams)

February 22, 2013

An act to add Part 1.87 (commencing with Section 34191.50) to Division 24 of the Health and Safety Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 1080, as amended, Alejo. Community Revitalization and Investment Authorities.

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

This bill would authorize certain public entities of a community revitalization and investment area, as described, to form a community revitalization plan within a community revitalization and investment authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would require the authority to adopt a community revitalization plan for a community revitalization and investment area and authorize the authority to include in that plan a provision for the receipt of tax increment funds.

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

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

SECTION 1. (a) Certain areas of the state are generally characterized by buildings in which it is unsafe or unhealthy for persons to live or work, conditions that make the viable use of buildings or lots difficult, high business vacancies and lack of employment opportunities, and inadequate public improvements, water, or sewer utilities. It is the intent of the Legislature to create a planning and financing tool to support the revitalization of these communities.

(b) It is in the interest of the state to support the economic revitalization of these communities through tax increment financing.

(c) It is the intent of the Legislature to authorize the creation of Community Revitalization and Investment Authorities to invest tax increment revenue to relieve conditions of unemployment, reduce high crime rates, repair deteriorated or inadequate infrastructure, promote affordable housing, and improve conditions leading to increased employment opportunities.

SEC. 2. Part 1.87 (commencing with Section 34191.50) is added to Division 24 of the Health and Safety Code, to read:

PART 1.87. COMMUNITY REVITALIZATION AND INVESTMENT AUTHORITIES

34191.50. As used in this part, the following terms have the following meanings:

(a) “Authority” means the Community Revitalization and Investment Authority created pursuant to this part.

(b) “Plan” means a community revitalization plan.

34191.51. (a) A community revitalization and investment authority is a public body, corporate and politic, with jurisdiction to carry out a community revitalization plan within a community revitalization and investment area. The authority shall be deemed to be an "agency" as defined Section 33003 for purposes of receiving tax increment revenues pursuant to Article XVI of Section 16 of the California Constitution. The authority shall have only those powers and duties specifically set forth in Section 34191.53.

(b) *(1)* An authority may be created in one of the following ways:

~~(1)~~

(A) A city, county, or city and county may adopt a resolution creating an authority. The composition of the governing board shall be comprised as set forth in subdivision (c).

~~(2)~~

(B) A city, county, city and county, and special district, as special district is defined in subdivision (m) of Section 95 of the Revenue and Taxation Code, or any combination thereof, may create an authority by entering into a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title I of the Government Code.

(2) A school entity, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code, may not participate in an authority created pursuant to this part.

(c) (1) The governing board of an authority created pursuant to paragraph (1) of subdivision (b) shall be appointed by the legislative body of the city, county, or city and county that created the authority and shall include three members of the legislative body of the city, county, or city and county that created the authority and two public members. The appointment of the two public members shall be subject to the provisions of Section 54974 of the Government Code. The two public members shall live or work within the community revitalization and investment area.

(2) The governing body of the authority created pursuant to paragraph (2) of subdivision (b) shall be comprised of a majority of members from the legislative bodies of the public agencies that created the authority and a minimum of two public members who live or work within the community revitalization and investment area. The majority of the board shall appoint the public members to the governing body. The appointment of the public members

shall be subject to the provisions of Section 54974 of the Government Code.

(d) An authority may carry out a community revitalization plan within a community revitalization and investment area. Not less than 80 percent of the land calculated by census tracts within the area shall be characterized by both of the following conditions:

(1) An annual median household income that is less than 80 percent of the statewide annual median income.

(2) Three of the following four conditions:

(A) Unemployment that is at least 3 percent higher than statewide median unemployment.

(B) Crime rates that are 5 percent higher than the statewide median crime rate.

(C) Deteriorated or inadequate infrastructure such as streets, sidewalks, water supply, sewer treatment or processing, and parks.

(D) Deteriorated commercial or residential structures.

(e) An authority may also carry out a community revitalization plan within a community revitalization and investment area established within a former military base that is principally characterized by deteriorated or inadequate infrastructure and structures. Notwithstanding ~~the provisions of~~ subdivision (c), the governing board of an authority established within a former military base shall include a member of the military base closure commission as a public member.

(f) The conditions described in subdivisions (d) and (e) shall constitute blight within the meaning of the Community Redevelopment Law. The authority shall not be required to make a finding of blight or conduct a survey of blight within the area.

(g) An authority created pursuant to this part shall be a local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

34191.53. An authority may do all of the following:

(a) Provide funding to rehabilitate, repair, upgrade, or construct infrastructure.

(b) Provide funding for low- and moderate-income housing.

(c) Remedy or remove a release of hazardous substances pursuant to the Polanco Redevelopment Act (Sections 33459 to 33459.8, inclusive).

(d) Provide for seismic retrofits of existing buildings pursuant to Section 33420.1.

(e) Acquire and transfer real property in accordance with paragraph (4) of subdivision (a) of Section 33333.2, Article 7 (commencing with Section 33390) of Part 1 of Division 24, and Sections 33340, 33349, 33350, 33435, 33436, 33437, 33437.5, 33438, 33439, 33440, 33442, 33443, 33444, 33444.5, 33444.6, and 33445.

The authority shall retain controls and establish restrictions or covenants running with the land sold or leased for private use for such periods of time and under such conditions as are provided in the plan. The establishment of such controls is a public purpose under the provisions of this part.

(f) Issue bonds pursuant to Article 5 (commencing with Section 33640) of Chapter 6 of Part 1 of Division 24.

(g) An authority may borrow money, receive grants, or accept financial or other assistance or investment from the state or the federal government or any other public agency or private lending institution for any project or within its area of operation, and may comply with any conditions of the loan or grant. An authority may qualify for funding as a disadvantaged community as determined by the California Environmental Protection Agency pursuant to Section 79505.5 of the Water Code or as defined by Section 56033.5 of the Government Code. An authority may also enter into an agreement with a qualified community development entity, as defined by Section 45D(c) of the Internal Revenue Code, to coordinate investments of funds derived from the New Markets Tax Credit with those of the authority in instances where coordination offers opportunities for greater efficiency of investments to improve conditions described in subdivisions (d) and (e) within the territorial jurisdiction of the authority.

(h) At any time after the authority is authorized to transact business and exercise its powers, the legislative body or bodies of the local government that created the authority may appropriate the amounts the legislative body or bodies deem necessary for the administrative expenses and overhead of the authority.

The money appropriated may be paid to the authority as a grant to defray the expenses and overhead, or as a loan to be repaid upon such terms and conditions as the legislative body may provide. If appropriated as a loan, the property owners within the plan area shall be made third-party beneficiaries of the repayment of the loan. In addition to the common understanding and usual interpretation of the term, “administrative expense” includes, but is not limited to, expenses of planning and dissemination of information.

(i) Adopt a community revitalization and investment plan pursuant to Section 34191.55.

(j) Make loans or grants for owners or tenants to improve, rehabilitate, or retrofit buildings or structures within the plan area.

(k) Except as specified in Section 33426.5, provide direct assistance to businesses within the plan area in connection with new or existing facilities for industrial or manufacturing uses.

34191.55. An authority shall adopt a community revitalization and investment plan that may include a provision for the receipt of tax increment funds generated within the area according to Section 33670 provided the plan includes each of the following elements:

(a) A statement of the principal goals and objectives of the plan.

(b) A description of the deteriorated or inadequate infrastructure within the area and a program for construction of adequate infrastructure or repair or upgrading of existing infrastructure.

(c) A program that complies with Sections 33334.2 and ~~33334.12.~~ *all applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33300) of Division 24). An authority that includes a provision for the receipt of tax increment revenues pursuant to Section 33670 in its Community Revitalization and Investment Plan shall dedicate at least 25 percent of allocated tax increment revenues for affordable housing purposes.* If the authority makes a finding that combining funding received under this program with other funding for the same purpose shall reduce administrative costs or expedite the construction of affordable housing, then an authority may transfer funding from the program ~~to a private nonprofit corporation,~~ to the housing authority within the territorial jurisdiction of the local jurisdiction that created the authority~~,~~ or to the entity that received the housing assets of the former redevelopment agency pursuant to Section 34176. *Funding shall be spent within the project area in which the funds were generated.* Any recipient of funds transferred pursuant to this subdivision shall comply with ~~each of the requirements of Sections 33334.2 and 33334.12. The program adopted pursuant to this subdivision shall comply with the provisions of Section 33413.~~ *all applicable provisions of the Community Redevelopment Law.*

(d) A program to remedy or remove a release of hazardous substances, if applicable.

(e) A program to provide funding for or otherwise facilitate the economic revitalization of the area.

(f) A fiscal analysis setting forth the projected receipt of revenue and projected expenses over a five-year planning horizon.

(g) The time limits imposed by Section 33333.2.

34191.57. (a) The authority shall consider adoption of the plan at two public hearings that shall take place at least 30 days apart. At the first public hearing, the authority shall hear all written and oral comments but take no action. At the second public hearing, the authority shall consider all written and oral comments and take action to modify, adopt, or reject the plan.

(b) The draft plan shall be made available to the public and to each property owner within the area at a meeting held at least 30 days prior to the notice given for the first public hearing. The purposes of the meeting shall be to allow the staff of the authority to present the draft plan, answer questions about the plan, and consider comments about the plan.

(c) (1) Notice of the first public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the county in which the area lies and shall be mailed to each property owner within the proposed area of the plan. Notice of the second public hearing shall be given by publication not less than 10 days prior to the date of the second public hearing in a newspaper of general circulation published in the county in which the area lies and shall be mailed to each property owner within the proposed area of the plan. The notice shall do all of the following:

(A) Describe specifically the boundaries of the proposed area.

(B) Describe the purpose of the plan.

(C) State the day, hour, and place when and where any and all persons having any comments on the proposed plan may appear to provide written or oral comments to the authority.

(D) Notice of second public hearing shall include a summary of the changes made to the plan as a result of the oral and written testimony received at or before the public hearing and shall identify a location accessible to the public where the plan to be presented at the second public hearing can be reviewed.

(2) The authority may provide notice of the public hearings to tenants of properties within the proposed area of the plan in a manner of its choosing.

(d) At the hour set in the notice required by subdivision (a), the authority shall consider all written and oral comments.

(e) The authority may adopt the plan at the conclusion of the second public hearing by ordinance. The ordinance adopting the plan shall be subject to referendum as prescribed by law for the ordinances of the local jurisdiction that created the authority.

(f) The redevelopment plan referred to in Section 33670 shall be the plan adopted pursuant to this section.

34191.59. (a) The plan adopted pursuant to Section 34191.57 may include a provision for the receipt of tax increment funds according to Section 33670 in accordance with this section.

(b) The plan shall limit the taxes that are allocated to the authority to those defined in Section 33670 collected for the benefit of the taxing agencies that have adopted a resolution pursuant to subdivision (d).

(c) The provision for the receipt of tax increment funds shall become effective in the tax year that begins after the December 1 first following the adoption of the plan.

(d) At any time prior to or after adoption of the plan, any city, county, or special district, other than a school entity as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code, that receives ad valorem property taxes from property located within an area may adopt a resolution directing the county auditor-controller to allocate its share of tax increment funds within the area covered by the plan according to Section 33670 to the authority. The resolution adopted pursuant to this subdivision may direct the county auditor-controller to allocate less than the full amount of the tax increment, establish a maximum amount of time in years that the allocation takes place, or limit the use of the funds by the authority for specific purposes or programs. A resolution adopted pursuant to this subdivision may be repealed and be of no further effect by giving the county auditor-controller 60 days' notice; provided, however, that the county auditor-controller shall continue to allocate to the authority the taxing entity's share of ad valorem property taxes that have been pledged to the repayment of debt issued by the authority until the debt has been fully repaid.

(e) Upon adoption of a plan that includes a provision for the receipt of tax increment funds according to Section 33670, the county auditor-controller shall allocate tax increment revenue to the authority as follows:

(1) If the authority was formed pursuant to *subparagraph (A) of* paragraph (1) of subdivision (b) of Section 34191.51, the authority shall be allocated each year specified in the plan that portion of the taxes levied for each city, county, city and county, and special district that has adopted a resolution pursuant to subdivision (d), in excess of the amount specified in subdivision (a) of Section 33670.

(2) If the authority was formed pursuant to *subparagraph (B) of* paragraph ~~(2)~~ *(1)* of subdivision (b) of Section 34191.51, the authority shall be allocated each year specified in the plan that portion of the taxes levied for each jurisdiction as provided in the joint powers agreement in excess of the amount specified in subdivision (a) of Section 33670.

(f) If an area includes, in whole or in part, land formerly or currently designated as a part of a redevelopment project area, as defined in Section 33320.1, any plan adopted pursuant to this part that includes a provision for the receipt of tax increment revenues according to Section 33670 shall include a provision that tax increment amounts collected and received by an authority are subject and subordinate to any preexisting enforceable obligation as that term is defined by Section 34171.

34191.61. (a) The authority shall review the plan at least annually and make any modifications that are necessary and appropriate in accordance with the provisions of this section, and shall require the preparation of an annual independent financial audit paid for from revenues of the authority.

(b) After holding a public hearing, an authority shall adopt a report on or before June 30 of each year. Written copies of the draft report shall be made available to the public 30 days prior to the public hearing. The clerk of the legislative body shall post the draft report in an easily identifiable and accessible location on the authority's Internet Web site and shall mail a written notice of the availability of the draft report on the Web site to each owner of land within the area covered by the plan and to each taxing entity that has adopted a resolution pursuant to subdivision (d) of Section 34191.59.

(c) The annual report shall contain all of the following:

(1) A description of the projects undertaken in the fiscal year and a comparison of the progress expected to be made on those projects compared to the actual progress.

(2) A chart comparing the actual revenues and expenses, including administrative costs, of the authority to the budgeted revenues and expenses

(3) The amount of tax increment revenues received.

(4) The amount of revenues received for low- and moderate-income housing

(5) The amount of revenues expended for low- and moderate-income housing.

(6) An assessment of the status regarding completion of the authority's projects.

(7) The amount of revenues expended to assist private businesses.

(d) If the authority fails to provide the annual report required by subdivision (a), the authority shall not spend any funds received pursuant to a resolution adopted pursuant to subdivision (d) of Section 34191.59.

(e) Every 10 years, at the public hearing held pursuant to subdivision (a), the authority shall conduct a protest proceeding to consider whether the property owners within the plan area wish to present oral or written protests against the authority. Notice of this protest proceeding shall be included in the written notice of the hearing on the annual report and shall inform the property owner of his or her right to submit an oral or written protest before the close of the public hearing. The protest may state that the property owner objects to the authority taking action to implement the plan on and after the effective date of the election described in subdivision ~~(e)~~ *(f)*. The authority shall consider all written and oral protests received prior to the close of the public hearing.

(f) If there is a majority protest, the authority shall call an election of the property owners in the area covered by the plan, and shall not initiate or authorize any new projects until the election is held. A majority protest exists if protests have been filed representing over 50 percent of the assessed value in the area.

(g) An election required pursuant to subdivision ~~(e)~~ *(f)* shall be held within 90 days of the public hearing and may be held by mail-in ballot.

(h) If a majority of the property owners, weighted proportional to the assessed value of their property, vote against the authority, then the authority shall not take any further action to implement the plan on and after the effective date of the election held pursuant to subdivision (e). This section shall not prevent the authority from taking any and all actions and appropriating and expending funds, including but not limited to any and all payments on bonded or contractual indebtedness, to carry out and complete projects for which expenditures of any kind had been made prior to the effective date of the election.

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