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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1080

Introduced by Assembly Member Alejo

**(Principal coauthors: Assembly Members Atkins, Mullin and
V. Manuel Pérez)**

**(Coauthors: Assembly Members Brown, Dickinson, Ian Calderon,
Chau, Perea, Stone, Ting, 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:

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

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

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

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

1 PART 1.87. COMMUNITY REVITALIZATION AND
2 INVESTMENT AUTHORITIES

3
4 34191.50. As used in this part, the following terms have the
5 following meanings:

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

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

9 34191.51. (a) A community revitalization and investment
10 authority is a public body, corporate and politic, with jurisdiction
11 to carry out a community revitalization plan within a community
12 revitalization and investment area. The authority shall be deemed
13 to be an “agency” as defined in Section 33003 for purposes of
14 receiving tax increment revenues pursuant to Article XVI of
15 Section 16 of the California Constitution. The authority shall have
16 only those powers and duties specifically set forth in Section
17 34191.53.

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

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

23 (B) A city, county, city and county, and special district, as
24 special district is defined in subdivision (m) of Section 95 of the
25 Revenue and Taxation Code, or any combination thereof, may
26 create an authority by entering into a joint powers agreement
27 pursuant to Chapter 5 (commencing with Section 6500) of Division
28 7 of Title 1 of the Government Code.

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

32 (3) A city or county that created a redevelopment agency that
33 was dissolved pursuant to Part 1.85 (commencing with Section
34 34170) of Division 24 shall not form an authority under this section
35 unless the successor agency or designated local authority for the
36 former redevelopment agency has received a finding of completion
37 from the Department of Finance pursuant to Section 34179.7.

38 (c) (1) The governing board of an authority created pursuant
39 to subparagraph (A) of paragraph (1) of subdivision (b) shall be
40 appointed by the legislative body of the city, county, or city and

1 county that created the authority and shall include three members
 2 of the legislative body of the city, county, or city and county that
 3 created the authority and two public members. The appointment
 4 of the two public members shall be subject to the provisions of
 5 Section 54974 of the Government Code. The two public members
 6 shall live or work within the community revitalization and
 7 investment area.

8 (2) The governing body of the authority created pursuant to
 9 subparagraph (B) of paragraph (1) of subdivision (b) shall be
 10 comprised of a majority of members from the legislative bodies
 11 of the public agencies that created the authority and a minimum
 12 of two public members who live or work within the community
 13 revitalization and investment area. The majority of the board shall
 14 appoint the public members to the governing body. The
 15 appointment of the public members shall be subject to the
 16 provisions of Section 54974 of the Government Code.

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

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

23 (2) Three of the following four conditions:

24 (A) Nonseasonal unemployment that is at least 3 percent higher
 25 than statewide median unemployment, as defined by the report on
 26 labor market information published by the Employment
 27 Development Department in January of the year in which the
 28 community revitalization plan is prepared.

29 (B) Crime rates that are 5 percent higher than the statewide
 30 median crime rate, as defined by the most recent annual report of
 31 the Criminal Justice Statistics Center within the Department of
 32 Justice.

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

35 (D) Deteriorated commercial or residential structures.

36 (e) As an alternative to subdivision (d), an authority may also
 37 carry out a community revitalization plan within a community
 38 revitalization and investment area established within a former
 39 military base that is principally characterized by deteriorated or
 40 inadequate infrastructure and structures. Notwithstanding

1 subdivision (c), the governing board of an authority established
2 within a former military base shall include a member of the military
3 base closure commission as a public member.

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

8 (g) An authority created pursuant to this part shall be a local
9 public agency subject to the Ralph M. Brown Act (Chapter 9
10 commencing with Section 54950) of Part 1 of Division 2 of Title
11 5 of the Government Code), the California Public Records Act
12 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
13 Title 1 of the Government Code), and the Political Reform Act of
14 1974 (Title 9 (commencing with Section 81000) of the Government
15 Code).

16 (h) (1) At any time after the authority is authorized to transact
17 business and exercise its powers, the legislative body or bodies of
18 the local government or governments that created the authority
19 may appropriate the amounts the legislative body or bodies deem
20 necessary for the administrative expenses and overhead of the
21 authority.

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

31 34191.53. An authority may do all of the following:

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

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

35 (c) Remedy or remove a release of hazardous substances
36 pursuant to the Polanco Redevelopment Act (Sections 33459 to
37 33459.8, inclusive).

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

1 (e) Acquire and transfer real property in accordance with
2 paragraph (4) of subdivision (a) of Section 33333.2, Article 7
3 (commencing with Section 33390) of Part 1 of Division 24, and
4 Sections 33340, 33349, 33350, 33435, 33436, 33437, 33437.5,
5 33438, 33439, 33440, 33442, 33443, 33444, 33444.5, 33444.6,
6 and 33445.

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

12 (f) Issue bonds pursuant to Article 5 (commencing with Section
13 33640) of Chapter 6 of Part 1 of Division 24.

14 (g) Borrow money, receive grants, or accept financial or other
15 assistance or investment from the state or the federal government
16 or any other public agency or private lending institution for any
17 project or within its area of operation, and may comply with any
18 conditions of the loan or grant. An authority may qualify for
19 funding as a disadvantaged community as determined by the
20 California Environmental Protection Agency pursuant to Section
21 79505.5 of the Water Code or as defined by Section 56033.5 of
22 the Government Code. An authority may also enter into an
23 agreement with a qualified community development entity, as
24 defined by Section 45D(c) of the Internal Revenue Code, to
25 coordinate investments of funds derived from the New Markets
26 Tax Credit with those of the authority in instances where
27 coordination offers opportunities for greater efficiency of
28 investments to improve conditions described in subdivisions (d)
29 and (e) within the territorial jurisdiction of the authority.

30 (h) Adopt a community revitalization and investment plan
31 pursuant to Section 34191.55.

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

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

37 34191.55. An authority shall adopt a community revitalization
38 and investment plan that may include a provision for the receipt
39 of tax increment funds generated within the area according to

1 Section 33670 provided the plan includes each of the following
2 elements:

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

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

7 (c) A program that complies with Sections 33334.2 and all
8 ~~applicable~~ *other housing-related* provisions of the Community
9 Redevelopment Law (Part 1 (commencing with Section 33300)
10 of Division 24). An authority that includes a provision for the
11 receipt of tax increment revenues pursuant to Section 33670 in its
12 Community Revitalization and Investment Plan shall dedicate at
13 least 25 percent of allocated tax increment revenues for affordable
14 housing purposes. If the authority makes a finding that combining
15 funding received under this program with other funding for the
16 same purpose shall reduce administrative costs or expedite the
17 construction of affordable housing, then an authority may transfer
18 funding from the program to the housing authority within the
19 territorial jurisdiction of the local jurisdiction that created the
20 authority or to the entity that received the housing assets of the
21 former redevelopment agency pursuant to Section 34176; *however,*
22 *Section 34176.1 shall not apply to funds transferred.* Funding shall
23 be spent within the project area in which the funds were generated.
24 Any recipient of funds transferred pursuant to this subdivision
25 shall comply with all applicable provisions of the Community
26 Redevelopment Law.

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

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

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

33 (g) The time limits imposed by Section 33333.2.

34 (h) A program that does both of the following:

35 (1) Prohibits the number of housing units occupied by extremely
36 low, very low, and low-income households, including the number
37 of bedrooms in those ~~units, in the Sustainable Communities~~
38 ~~Investment Area at the time the Sustainable Communities~~
39 ~~Investment Authority is established~~ *units* from being reduced *in*

1 *the plan area* during the effective period of the ~~Sustainable~~
2 ~~Communities Investment Plan~~ *plan*.

3 (2) Requires the replacement of dwelling units that house
4 extremely low, very low, or low-income ~~households, upon their~~
5 ~~removal from the Sustainable Communities Investment Area,~~
6 *households* pursuant to subdivision (a) of Section 33413 within
7 two years of their displacement.

8 34191.57. (a) The authority shall consider adoption of the plan
9 at two public hearings that shall take place at least 30 days apart.
10 At the first public hearing, the authority shall hear all written and
11 oral comments but take no action. At the second public hearing,
12 the authority shall consider all written and oral comments and take
13 action to modify, adopt, or reject the plan.

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

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

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

31 (B) Describe the purpose of the plan.

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

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

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

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

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

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

12 (g) The authority shall consider and adopt an amendment or
13 amendments to a plan in accordance with the provisions of this
14 section.

15 34191.59. (a) The plan adopted pursuant to Section 34191.57
16 may include a provision for the receipt of tax increment funds
17 according to Section 33670 in accordance with this section.

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

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

25 (d) At any time prior to or after adoption of the plan, any city,
26 county, or special district, other than a school entity as defined in
27 subdivision (n) of Section 95 of the Revenue and Taxation Code,
28 that receives ad valorem property taxes from property located
29 within an area may adopt a resolution directing the county
30 auditor-controller to allocate its share of tax increment funds within
31 the area covered by the plan according to Section 33670 to the
32 authority. The resolution adopted pursuant to this subdivision may
33 direct the county auditor-controller to allocate less than the full
34 amount of the tax increment, establish a maximum amount of time
35 in years that the allocation takes place, or limit the use of the funds
36 by the authority for specific purposes or programs. A resolution
37 adopted pursuant to this subdivision may be repealed and be of no
38 further effect by giving the county auditor-controller 60 days'
39 notice; provided, however, that the county auditor-controller shall
40 continue to allocate to the authority the taxing entity's share of ad

1 valorem property taxes that have been pledged to the repayment
2 of debt issued by the authority until the debt has been fully repaid.
3 Prior to adopting a resolution pursuant to this subdivision a city,
4 county, or special district shall approve a memorandum of
5 understanding with the authority governing the authority's use of
6 tax increment funds for administrative and overhead expenses
7 pursuant to subdivision (h) of Section 34191.51.

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

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

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

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

33 34191.61. (a) The authority shall review the plan at least
34 annually and make any amendments that are necessary and
35 appropriate in accordance with the procedures set forth in Section
36 34191.57, and shall require the preparation of an annual
37 independent financial audit paid for from revenues of the authority.

38 (b) An authority shall adopt an annual report on or before June
39 30 of each year after holding a public hearing. Written copies of
40 the draft report shall be made available to the public 30 days prior

1 to the public hearing. The authority shall cause the draft report to
2 be posted in an easily identifiable and accessible location on the
3 authority's Internet Web site and shall mail a written notice of the
4 availability of the draft report on the *Internet* Web site to each
5 owner of land *and each resident* within the area covered by the
6 plan and to each taxing entity that has adopted a resolution pursuant
7 to subdivision (d) of Section 34191.59. *The notice shall be mailed*
8 *by first class mail, but may be addressed to "occupant."*

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

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

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

16 (3) The amount of tax increment revenues received.

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

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

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

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

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

29 (e) Every 10 years, at the public hearing held pursuant to
30 subdivision (b), the authority shall conduct a protest proceeding
31 to consider whether the property owners *and residents* within the
32 plan area wish to present oral or written protests against the
33 authority. Notice of this protest proceeding shall be included in
34 the written notice of the hearing on the annual report and shall
35 inform the property owner *and resident* of his or her right to submit
36 an oral or written protest before the close of the public hearing.
37 The protest may state that the property owner *or resident* objects
38 to the authority taking action to implement the plan on and after
39 the date of the election described in subdivision (f). The authority

1 shall consider all written and oral protests received prior to the
 2 close of the public hearing.

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

9 (g) An election required pursuant to subdivision (f) shall be held
 10 within 90 days of the public hearing and may be held by mail-in
 11 ballot. *The authority shall adopt, at a duly noticed public hearing,*
 12 *procedures for holding this election.*

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

23 34191.63. (a) Every five years the authority shall contract for
 24 an independent audit to determine compliance with the affordable
 25 housing maintenance and replacement requirements of subdivision
 26 (h) of Section 34191.55, including provisions to ensure that the
 27 requirements are met within each five-year period covered by the
 28 audit. The audit shall be conducted according to guidelines
 29 established by the Controller. A copy of the completed audit shall
 30 be provided to the Controller. The Controller shall not be required
 31 to review and approve the completed audits.

32 (b) ~~A finding of~~ *Where the audit demonstrates a failure to*
 33 *comply with the requirements of subdivision (h) of Section*
 34 *34191.55 shall require the authority to adopt and submit to the*
 35 *Controller, as part of the audit, a plan to achieve compliance with*
 36 *those provisions as soon as feasible, but in not less than two years*
 37 *following the findings. The Controller shall review and approve*
 38 *the plan, and require the plan to stay in effect until compliance is*
 39 *achieved. The Controller shall ensure that the plan includes one*
 40 *or more of the following means of achieving compliance:*

1 (1) The expenditure of an additional 10 percent of gross tax
2 increment revenue on increasing, preserving, and improving the
3 supply of low-income housing.

4 (2) An increase in the production, by an additional 10 percent,
5 of housing for very low income households as required by
6 paragraph (2) of subdivision (b) of Section 33413.

7 (3) The targeting of expenditures pursuant to Section 33334.2
8 exclusively to rental housing affordable to, and occupied by,
9 persons of very low and extremely low income.

O