

Assembly Bill No. 2492

CHAPTER 524

An act to amend Sections 62001, 62002, and 62004 of the Government Code, relating to economic development.

[Approved by Governor September 23, 2016. Filed with
Secretary of State September 23, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2492, Alejo. Community revitalization.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, by means of redevelopment projects financed by the issuance of bonds serviced by tax increment revenues derived from the project area. Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved agencies and to fulfill the enforceable obligations of those agencies. Existing law also provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the state.

Existing law authorizes certain local agencies to form a community revitalization and investment authority (authority) within a community revitalization and investment area, as defined, to carry out provisions of the Community Redevelopment Law in that area for purposes related to, among other things, infrastructure, affordable housing, and economic revitalization. Existing law requires not less than 80% of the land calculated by census tracts or census block groups, as defined by the United States Census Bureau, within the area to be characterized by several conditions, including a condition that the land has an annual median household income of less than 80% of the statewide annual median income.

This bill would authorize the calculation to be made with a combination of census tracts and census block groups. The bill would also revise the conditions to require, among other things, an annual median household income that is less than 80% of the statewide, countywide, or citywide annual median household income. The bill would also authorize an authority to carry out a community revitalization plan if the census tract or census block groups within the community revitalization and investment area are within a disadvantage community, as prescribed.

Existing law authorizes certain entities that receive ad valorem property taxes to adopt a resolution in a specified manner to allocate their share of tax increment funds within the area covered by a community revitalization plan to the authority.

Existing law authorizes an authority to borrow money, receive grants, or accept financial or other assistance or investment from the state or any other public agency for any project within its area of operation.

This bill would authorize an authority to also receive funds allocated to it pursuant to a resolution adopted by a city, county, or special district to transfer these funds from certain tax and assessment revenues, subject to specified requirements as to the use of those funds.

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

SECTION 1. Section 62001 of the Government Code is amended to read:

62001. (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 the “agency” described in subdivision (b) of Section 16 of Article XVI of the California Constitution for purposes of receiving tax increment revenues. The authority shall have only those powers and duties specifically set forth in Section 62002.

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

(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).

(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 1.

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

(B) A successor agency, as defined in subdivision (j) of Section 34171 of the Health and Safety Code, may not participate in an authority created pursuant to this part, and an entity created pursuant to this part shall not receive any portion of the property tax revenues or other moneys distributed pursuant to Section 34188 of the Health and Safety Code.

(3) An authority formed by a city or county that created a redevelopment agency that was dissolved pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code shall not become effective until the successor agency or designated local authority for the former redevelopment agency has adopted findings of fact stating all of the following:

(A) The agency has received a finding of completion from the Department of Finance pursuant to Section 34179.7 of the Health and Safety Code.

(B) Former redevelopment agency assets which are the subject of litigation against the state, where the city or county or its successor agency

or designated local authority are a named plaintiff, have not been or will not be used to benefit any efforts of an authority formed under this part unless the litigation has been resolved by entry of a final judgment by any court of competent jurisdiction and any appeals have been exhausted.

(C) The agency has complied with all orders of the Controller pursuant to Section 34167.5 of the Health and Safety Code.

(c) (1) The governing board of an authority created pursuant to subparagraph (A) of 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 Section 54974. 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 subparagraph (B) of paragraph (1) 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 Section 54974.

(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, census block groups, as defined by the United States Census Bureau, or any combination of both within the area shall be characterized by both of the following conditions:

(1) An annual median household income that is less than, at the option of the authority, 80 percent of the statewide, countywide, or citywide annual median income.

(2) Three of the following four conditions:

(A) An unemployment rate that is at least 3 percentage points higher than the statewide average annual unemployment rate, as defined by the report on labor market information published by the Employment Development Department in March of the year in which the community revitalization plan is prepared. In determining the unemployment rate within the community revitalization and investment area, an authority may use unemployment data from the periodic American Community Survey published by the United States Census Bureau.

(B) Crime rates, as documented by records maintained by the law enforcement agency that has jurisdiction in the proposed plan area for violent or property crime offenses, that are at least 5 percent higher than the statewide average crime rate for violent or property crime offenses, as defined by the most recent annual report of the Criminal Justice Statistics Center within the Department of Justice, when data is available on the Attorney General's Internet Web site. The crime rate shall be calculated by taking the local crime incidents for violent or property crimes, or any offense within those categories, for the most recent calendar year for which the

Department of Justice maintains data, divided by the total population of the proposed plan area, multiplied by 100,000. If the local crime rate for the proposed plan area exceeds the statewide average rate for either violent or property crime, or any offense within these categories, by more than 5 percent, then the condition described in this subparagraph shall be met.

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

(D) Deteriorated commercial or residential structures.

(e) As an alternative to subdivision (d), an authority may also carry out a community revitalization plan within a community revitalization and investment area if it meets either of the following conditions:

(1) The area is established within a former military base that is principally characterized by deteriorated or inadequate infrastructure and structures. Notwithstanding 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.

(2) The census tracts or census block groups, as defined by the United States Census Bureau, within the area are situated within a disadvantaged community as described in Section 39711 of the Health and Safety Code.

(f) 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), the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

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

(2) 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 the terms and conditions as the legislative body may provide. If appropriated as a loan, the property owners and residents 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.

SEC. 2. Section 62002 of the Government Code is amended to read:

62002. An authority may do all of the following:

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

(b) Provide for low- and moderate-income housing in accordance with Part 2 (commencing with Section 62100).

(c) Remedy or remove a release of hazardous substances pursuant to the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code.

(d) Provide for seismic retrofits of existing buildings in accordance with all applicable laws and regulations.

(e) Acquire and transfer real property in accordance with Part 3 (commencing with Section 62200). The authority shall retain controls and establish restrictions or covenants running with the land sold or leased for private use for the periods of time and under the conditions as are provided in the plan. The establishment of these controls is a public purpose under this part.

(f) Issue bonds in conformity with Article 4.5 (commencing with Section 53506) and Article 5 (commencing with Section 53510) of Chapter 3 of Part 1 of Division 2 of Title 5.

(g) (1) 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 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 pursuant to Section 79505.5 of the Water Code or as defined by Section 56033.5. 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.

(2) Receive funds allocated to it pursuant to a resolution adopted by a city, county, or special district to transfer these funds from a source described in subdivision (d), (e), or (f) of Section 53398.75, subject to any requirements upon, or imposed by, the city, county, or special district as to the use of these funds.

(h) Adopt a community revitalization and investment plan pursuant to Sections 62003 and 62004.

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

(j) Construct foundations, platforms, and other like structural forms necessary for the provision or utilization of air rights sites for buildings to be used for residential, commercial industrial, or other uses contemplated by the revitalization plan.

(k) Provide direct assistance to businesses within the plan area in connection with new or existing facilities for industrial or manufacturing uses, except as specified in this division.

SEC. 3. Section 62004 of the Government Code is amended to read:

62004. (a) The authority shall consider adoption of the plan at three 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 any additional written and oral comments and take action to modify or reject the plan. If the plan is not rejected at the second public hearing, then the

authority shall conduct a protest proceeding at the third public hearing to consider whether the property owners and residents within the plan area wish to present oral or written protests against the adoption of 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 meeting required by subdivision (b) and the public hearings required by this subdivision shall be given in accordance with subdivision (j). The notice shall do all of the following, as applicable:

(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 proposed to be presented and adopted at the second public hearing can be reviewed.

(E) Notice of the third public hearing to consider any written or oral protests shall contain a copy of the final plan adopted pursuant to subdivision (a), and shall inform the property owner and resident 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 or resident objects to the authority taking action to implement the plan.

(2) At the third public hearing, the authority shall consider all written and oral protests received prior to the close of the public hearing and shall terminate the proceedings or adopt the plan subject to confirmation by the voters at an election called for that purpose. The authority shall terminate the proceedings if there is a majority protest. A majority protest exists if protests have been filed representing over 50 percent of the combined number of property owners and residents in the area who are at least 18 years of age. An election shall be called if between 25 percent and 50 percent of the combined number of property owners and residents in the area who are at least 18 years of age file a protest.

(d) An election required pursuant to paragraph (2) of subdivision (c) shall be held within 90 days of the public hearing and may be held by mail-in ballot. The authority shall adopt, at a duly noticed public hearing, procedures for this election.

(e) If a majority of the property owners and residents vote against the plan, then the authority shall not take any further action to implement the proposed plan. The authority shall not propose a new or revised plan to the affected property owners and residents for at least one year following the date of an election in which the plan was rejected.

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

(g) If less than 25 percent of the combined number of property owners and residents in the area who are at least 18 years of age file a protest, the authority may adopt the plan at the conclusion of the third public hearing by ordinance. The ordinance adopting the plan shall be subject to referendum as prescribed by law.

(h) For the purposes of Section 62005, the plan shall be the plan adopted pursuant to this section.

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

(j) The authority shall post notice of each meeting or public hearing required by this section in an easily identifiable and accessible location on the authority's Internet Web site and shall mail a written notice of the meeting or public hearing to each owner of land and each resident at least 10 days prior to the meeting or public hearing.

(1) Notice of the first public hearing shall also be published not less than once a week for four successive weeks prior to the first public hearing in a newspaper of general circulation published in the county in which the area lies.

(2) Notice of the second public hearing shall also be published not less than 10 days prior to the second public hearing in a newspaper of general circulation in the county in which the area lies.

(3) Notice of the third public hearing shall also be published not less than 10 days prior to the third public hearing in a newspaper of general circulation in the county in which the area lies.