

AMENDED IN ASSEMBLY JANUARY 20, 2004

AMENDED IN ASSEMBLY JANUARY 7, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 269

Introduced by Assembly Member Mullin

February 4, 2003

~~An act to amend Section 33334.25 of the Health and Safety Code, relating to housing. An act to add Section 33334.2.2 to the Health and Safety Code, relating to redevelopment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 269, as amended, Mullin. ~~Redevelopment: affordable housing.~~
San Mateo County.

The Community Redevelopment Law requires redevelopment agencies to use not less than 20% of taxes allocated to the agency for low- and moderate-income housing, as specified. These funds may be used outside of the project area upon a finding by the agency and the legislative body of the community that it will benefit the project area.

This bill would expressly authorize redevelopment agencies within the County of San Mateo to use these funds anywhere within the unincorporated territory or within the incorporated limits of any city within the County of San Mateo. It would also expressly authorize any redevelopment agency within the county to use these funds outside its project area upon a finding by the agency and the board of supervisors that this use of funds will benefit the project area. It would prescribe other criteria for the use of those funds.

~~Under the Community Redevelopment Law, one of the fundamental purposes of redevelopment is to expand the supply of low and moderate-income housing. Existing law also authorizes the Department of Housing and Community Development to make grants to nonprofit housing sponsors and local public entities in constructing, rehabilitating, and operating assisted housing for low and moderate income households.~~

~~Existing law, until January 1, 2010, authorizes contiguous agencies located within adjoining cities in a Metropolitan Statistical Area to create and participate in a joint powers authority in order to pool their housing funds to pay for the direct costs of constructing, substantially rehabilitating, or preserving the affordability of housing units that are affordable to very low or low income households.~~

~~This bill would authorize contiguous agencies located within adjoining cities in San Mateo County to similarly create and participate in a joint powers authority to pool housing funds for purposes of low income housing in accordance with the above provisions.~~

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

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

- 1 ~~SECTION 1. Section 33334.25 of the Health and Safety Code~~
- 2 ~~SECTION 1. Section 33334.2.2 is added to the Health and~~
- 3 ~~Safety Code, to read:~~
- 4 ~~33334.2.2. (a) Redevelopment agencies within the County of~~
- 5 ~~San Mateo may use the funds described in Section 33334.2~~
- 6 ~~anywhere within the unincorporated territory, or within the~~
- 7 ~~incorporated limits of any city within the County of San Mateo.~~
- 8 ~~Redevelopment agencies within the County of San Mateo may only~~
- 9 ~~use these funds outside their project area upon a resolution of the~~
- 10 ~~agency and board of supervisors determining that the use will be~~
- 11 ~~of benefit to the project area. In addition, the agency may use these~~
- 12 ~~funds within the incorporated limits of a city only if the agency and~~
- 13 ~~the board of supervisors find all of the following:~~
- 14 ~~(1) Both the County of San Mateo and the city have adopted and~~
- 15 ~~are implementing complete and current housing elements of their~~
- 16 ~~general plans that the department has determined to be in~~
- 17 ~~compliance with the requirements of Article 10.6 (commencing~~



1 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
2 Government Code.

3 (2) The development to be funded shall not result in any
4 residential displacement from the site where the development is to
5 be built.

6 (3) The development to be funded shall be a rental housing
7 development containing units affordable to lower income
8 households or very low income households, as defined in Sections
9 50079.5 and 50105.

10 (4) The development is in an area with a need for additional
11 affordable housing.

12 (5) If applicable, Article XXXIV of the California Constitution
13 permits the development.

14 (6) The city in which the development is to be constructed has
15 certified to the agency that the city's redevelopment agency, if one
16 exists, is not subject to sanctions pursuant to subdivision (e) of
17 Section 33334.12 for failure to expend or encumber a housing fund
18 excess surplus.

19 (b) If the agency uses these funds within the incorporated limits
20 of a city, all of the following requirements shall apply:

21 (1) The funds shall be used only for the design and construction
22 of, housing containing units affordable to lower income
23 households or very low income households, as defined in Sections
24 50079.5 and 50105, on property that has been turned over by the
25 San Mateo County Transit Authority along the El Camino Real
26 Transit Corridor in San Mateo County.

27 (2) If less than all the units in the development are affordable
28 to lower income households or very low income households, any
29 agency assistance shall not exceed the amount needed to make the
30 housing affordable to lower income households and very low
31 income households.

32 (3) The units in the development that are affordable to lower
33 income households or very low income households shall remain
34 affordable for a period of at least 55 years. Compliance with this
35 requirement shall be ensured by the execution and recordation of
36 covenants and restrictions that, notwithstanding any other
37 provision of law, shall run with the land.

38 (4) No development shall be located in a census tract where
39 more than 50 percent of its population is very low income.



1 (5) Assisted developments shall be located on sites suitable for
2 multifamily housing near public transportation.

3 (6) Developed units shall not be treated as meeting the regional
4 housing needs allocation under both the city's and county's
5 housing elements.

6 (7) The funds shall be used only for developments for which the
7 city in which the development will be constructed has approved the
8 agency's use of funds for the development or has granted land use
9 approvals for the development.

10 (8) The aggregate number of units assisted by the county over
11 each five-year period shall include at least 10 percent that are
12 affordable to households earning 30 percent or less of the area
13 median income, and at least 40 percent that are affordable to very
14 low income households.

15 SEC. 2. The Legislature recognizes the unique circumstances
16 that exist with respect to San Mateo County that justify the
17 enactment of this legislation. The County of San Mateo has very
18 high costs of housing. The United States Department of Housing
19 and Urban Development has stated the 2004 fair market rent for
20 a two-bedroom apartment in San Mateo County to be one thousand
21 seven hundred seventy-five dollars (\$1,775) per month—the
22 second highest rental rate in both the nation and California. In
23 addition, the San Mateo County has ongoing traffic congestion.
24 According to the California Department of Transportation 1998
25 Highway Congestion Monitoring Program overall, delay created
26 by a traffic congestion increased 40 percent between 1996 and
27 1998. However, San Mateo County has a transit corridor, CalTrain
28 that runs the full length of the county and provides transit hubs with
29 other regional transit including the Bay Area Rapid Transit, the
30 San Francisco Municipal Railway, and the Santa Clara Valley
31 Transit Authority light rail. With 77 miles of track and undeveloped
32 land near and adjacent to its 14 transit stations located in San
33 Mateo County, CalTrain is an ideal corridor to encourage
34 affordable transit oriented development. These circumstances that
35 exist in San Mateo County are unique and justify the enactment of
36 this legislation.

37 ~~is amended to read:~~

38 ~~33334.25. (a) The Legislature finds and declares all of the~~
39 ~~following:~~



1 ~~(1) The transfer of funds to a joint powers authority and the use~~
2 ~~of pooled funds within the housing market area of the participating~~
3 ~~agencies for the purpose of providing affordable housing is of~~
4 ~~benefit to the project area producing the tax increment.~~

5 ~~(2) The cost and availability of land, geophysical and~~
6 ~~environmental limitations, community patterns, and the lack of~~
7 ~~financing make the availability of affordable housing more~~
8 ~~difficult in some communities.~~

9 ~~(3) The cooperation of local agencies and the use of pooled~~
10 ~~funds will result in more resources than would otherwise be~~
11 ~~available for affordable housing.~~

12 ~~(b) Notwithstanding any other provision of law, contiguous~~
13 ~~agencies located within adjoining cities within a single~~
14 ~~Metropolitan Statistical Area (MSA) or San Mateo County may~~
15 ~~create and participate in a joint powers authority for the purpose~~
16 ~~of pooling their low- and moderate-income housing funds for~~
17 ~~affordable housing uses. Agencies may transfer a portion of their~~
18 ~~housing funds to a joint powers authority for use by the joint~~
19 ~~powers authority pursuant to this section. The joint powers~~
20 ~~authority may determine the kinds of housing projects or activities~~
21 ~~to be assisted, consistent with this section. The joint powers~~
22 ~~authority may loan, grant, or advance transferred housing funds~~
23 ~~from participating agencies to a receiving entity for any eligible~~
24 ~~housing development within the participating agency's~~
25 ~~jurisdiction, subject to the requirements of this section. In~~
26 ~~addition, the agreement may authorize the joint powers authority~~
27 ~~to issue bonds and to use the pooled funds to leverage other funds~~
28 ~~to assist eligible developments, including loans from private~~
29 ~~institutions and assistance provided by other governmental~~
30 ~~agencies.~~

31 ~~(e) Each of the following conditions shall be met and described~~
32 ~~in a mutually binding agreement between the joint powers~~
33 ~~authority and each participating agency:~~

34 ~~(1) The community of each participating agency shall have~~
35 ~~adopted up-to-date housing elements pursuant to Article 10.6~~
36 ~~(commencing with Section 65580) of Division 1 of Title 7 of the~~
37 ~~Government Code, and the housing elements have been~~
38 ~~determined to be in compliance with the law by the Department of~~
39 ~~Housing and Community Development.~~



1 ~~(2) The community of each participating agency shall have~~
2 ~~met, in its current or previous housing element cycle, 50 percent~~
3 ~~or more of its share of the region's affordable housing needs, as~~
4 ~~defined in Section 65584 of the Government Code, in the very low~~
5 ~~and lower income categories of income groups defined in Section~~
6 ~~50025.5.~~

7 ~~(3) Each participating agency shall hold, at least 45 days prior~~
8 ~~to the transfer of funds to the joint powers authority, a public~~
9 ~~hearing, after providing notice pursuant to Section 6062 of the~~
10 ~~Government Code to solicit public comments on the draft~~
11 ~~agreement.~~

12 ~~(4) No housing funds shall be transferred from a project area~~
13 ~~that has an indebtedness to its low- and moderate-income housing~~
14 ~~fund pursuant to Section 33334.6.~~

15 ~~(5) No housing funds shall be transferred from an agency that~~
16 ~~has not met its need for replacement housing pursuant to Section~~
17 ~~33413, unless the agency has encumbered and contractually~~
18 ~~committed sufficient funds to meet those requirements.~~

19 ~~(6) Pooled funds shall be used within the participating~~
20 ~~agencies' jurisdictions.~~

21 ~~(7) The agreement shall require compliance by the joint powers~~
22 ~~authority with the provisions of this section.~~

23 ~~(8) The joint powers authority shall ensure that the funds it~~
24 ~~receives are used in accordance with the requirements of this~~
25 ~~section.~~

26 ~~(9) Funds transferred by an agency to a joint powers authority~~
27 ~~pursuant to this section shall be expended or encumbered by the~~
28 ~~joint powers authority for the purposes of this section within two~~
29 ~~years of the transfer. Transferred funds not so expended or~~
30 ~~encumbered by the joint powers authority within two years after~~
31 ~~the transfer shall be returned to the original agency and shall be~~
32 ~~deemed excess surplus funds as provided in, and subject to, the~~
33 ~~requirements of Sections 33334.10 and 33334.12. Excess surplus~~
34 ~~funds held by an agency may not be transferred to a joint powers~~
35 ~~authority.~~

36 ~~(10) The joint powers authority shall prepare and submit an~~
37 ~~annual report to the department that documents the amount of~~
38 ~~housing funds received and expended or allocated for specific~~
39 ~~housing assistance activities consistent with Sections 33080.4.~~



1 ~~(d) Each of the following conditions shall be met and described~~
2 ~~in a mutually binding contract between the joint powers authority~~
3 ~~and a receiving entity:~~

4 ~~(1) Pooled housing funds may only be used to pay for the direct~~
5 ~~costs of constructing, substantially rehabilitating, or preserving~~
6 ~~the affordability of housing units that are affordable to very low or~~
7 ~~low income households. Units assisted with pooled funds shall~~
8 ~~remain available at affordable housing costs in accordance with~~
9 ~~subdivision (f) of Section 33334.3.~~

10 ~~(2) Except as provided in this section, pooled housing funds~~
11 ~~may not be used in any way that is inconsistent with the~~
12 ~~requirements of Section 33334.3. Pooled housing funds may not~~
13 ~~be used to pay for planning and administrative costs, offsite~~
14 ~~improvements associated with a housing project, or fees or~~
15 ~~exactions levied solely for development projects constructed,~~
16 ~~substantially rehabilitated, or preserved with pooled funds. The~~
17 ~~receiving entity shall be subject to the same replacement~~
18 ~~requirements provided in Section 33413 and any relocation~~
19 ~~requirements applicable pursuant to Section 7260 of the~~
20 ~~Government Code.~~

21 ~~(3) The joint powers authority shall make findings, based on~~
22 ~~substantial evidence on the record, that each proposed use of~~
23 ~~pooled funds will not exacerbate racial or economic segregation.~~

24 ~~(4) The Department of Housing and Community Development~~
25 ~~has evaluated each proposed use of pooled funds to construct,~~
26 ~~substantially rehabilitate, or preserve the affordability of housing~~
27 ~~and determined that the proposed use is in compliance with this~~
28 ~~section. In considering whether a proposed use of funds will~~
29 ~~exacerbate racial or economic segregation, the department shall~~
30 ~~consider all of the following:~~

31 ~~(A) The record of participating jurisdictions in meeting their~~
32 ~~share of the regional need for low and very low income households~~
33 ~~allocated to the jurisdiction pursuant to Section 65584 of the~~
34 ~~Government Code.~~

35 ~~(B) The distance of the proposed housing from a~~
36 ~~redevelopment area from which pooled funds originated.~~

37 ~~(C) The income and ethnicity of the residents of the census tract~~
38 ~~from which the pooled funds originated and in which the housing~~
39 ~~will be located.~~



1 ~~(D) The housing need and availability of sufficient site for~~
2 ~~housing within jurisdictions from which pooled funds originated.~~
3 ~~(e) As used in this section, the following terms shall apply:~~
4 ~~(1) "Housing funds" mean funds in or from the low and~~
5 ~~moderate-income housing fund established by an agency pursuant~~
6 ~~to Section 33334.3.~~
7 ~~(2) "Joint powers authority" means a joint powers authority~~
8 ~~created pursuant to Chapter 5 (commencing with Section 6500) of~~
9 ~~Division 7 of Title 1 of the Government Code for the purposes of~~
10 ~~receiving and using housing funds pursuant to this section.~~
11 ~~(3) "Receiving entity" means any person, partnership, joint~~
12 ~~venture, corporation, governmental body, or other organization~~
13 ~~receiving housing funds from a joint powers authority for the~~
14 ~~purpose of providing housing pursuant to this section.~~
15 ~~(f) On or after January 1, 2008, no participating agency shall~~
16 ~~create a new joint powers authority or transfer funds to an existing~~
17 ~~joint powers authority pursuant to this section, unless a later~~
18 ~~enacted statute, which is enacted before January 1, 2008, deletes~~
19 ~~or extends that date.~~
20 ~~(g) This section shall remain in effect only until January 1,~~
21 ~~2010, and as of that date is repealed, unless a later enacted statute,~~
22 ~~that is enacted on or before January 1, 2010, deletes or extends that~~
23 ~~date.~~
24 ~~SEC. 2. Due to the unique circumstances concerning the~~
25 ~~County of San Mateo, the Legislature finds and declares that a~~
26 ~~general statute cannot be made applicable within the meaning of~~
27 ~~Section 16 of Article IV of the California Constitution. Therefore,~~
28 ~~this act is necessarily applicable only to the County of San Mateo.~~

