

AMENDED IN ASSEMBLY APRIL 7, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2280

Introduced by Assembly Member Alejo
(Principal coauthors: Assembly Members Atkins and Mullin)
(Coauthors: Assembly Members *Brown, Ian Calderon, Dickinson,*
Holden, Perea, V. Manuel Pérez, Stone, and Ting, and Williams)
(Coauthor: Senator Correa)

February 21, 2014

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 2280, 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 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.

This bill would authorize certain local agencies, to form a community revitalization 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. The bill would provide for the financing of these activities by, among other things, the issuance of bonds serviced by tax increment revenues, and would require the authority to adopt a community revitalization plan for the community revitalization and investment area that includes elements describing and governing revitalization activities. The bill would also provide for periodic audits of the authority with respect to affordable housing, conducted as provided by the Controller, and for annual public reports by the authority as well as periodic proceedings for the consideration of public protests.

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:

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 in 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:

(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 of the Government Code.

(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, 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.

(3) A city or county that created a redevelopment agency that was dissolved pursuant to Part 1.85 (commencing with Section 34170) of Division 24 shall not form an authority under this section unless the successor agency or designated local authority for the

former redevelopment agency has received a finding of completion from the Department of Finance pursuant to Section 34179.7.

(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 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 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 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, or census block groups, as defined by the United States Census Bureau, 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) Nonseasonal unemployment that is at least 3 percent higher than statewide median unemployment, as defined by the report on labor market information published by the Employment Development Department in January of the year in which the community revitalization plan is prepared.

(B) Crime rates that are 5 percent higher than the statewide median crime rate, 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 California Attorney General's Internet Web site.

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

3 (D) Deteriorated commercial or residential structures.

4 (e) As an alternative to subdivision (d), an authority may also
5 carry out a community revitalization plan within a community
6 revitalization and investment area established within a former
7 military base that is principally characterized by deteriorated or
8 inadequate infrastructure and structures. Notwithstanding
9 subdivision (c), the governing board of an authority established
10 within a former military base shall include a member of the military
11 base closure commission as a public member.

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

16 (g) An authority created pursuant to this part shall be a local
17 public agency subject to the Ralph M. Brown Act (Chapter 9
18 (commencing with Section 54950) of Part 1 of Division 2 of Title
19 5 of the Government Code), the California Public Records Act
20 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
21 Title 1 of the Government Code), and the Political Reform Act of
22 1974 (Title 9 (commencing with Section 81000) of the Government
23 Code).

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

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

39 34191.53. An authority may do all of the following:

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

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

4 (c) Remedy or remove a release of hazardous substances
5 pursuant to the Polanco Redevelopment Act (Article 12.5
6 (commencing with Section 33459) of Part 1 of Chapter 4 of
7 Division 24).

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

10 (e) Acquire and transfer real property in accordance with
11 paragraph (4) of subdivision (a) of Section 33333.2, Article 7
12 (commencing with Section 33390) of Part 1 of Division 24, and
13 Sections 33340, 33349, 33350, 33435, 33436, 33437, 33437.5,
14 33438, 33439, 33440, 33442, 33443, 33444, 33444.5, 33444.6,
15 and 33445.

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

21 (f) Issue bonds pursuant to Article 5 (commencing with Section
22 33640) of Chapter 6 of Part 1 of Division 24.

23 (g) Borrow money, receive grants, or accept financial or other
24 assistance or investment from the state or the federal government
25 or any other public agency or private lending institution for any
26 project or within its area of operation, and may comply with any
27 conditions of the loan or grant. An authority may qualify for
28 funding as a disadvantaged community as determined by the
29 California Environmental Protection Agency pursuant to Section
30 79505.5 of the Water Code or as defined by Section 56033.5 of
31 the Government Code. An authority may also enter into an
32 agreement with a qualified community development entity, as
33 defined by Section 45D(c) of the Internal Revenue Code, to
34 coordinate investments of funds derived from the New Markets
35 Tax Credit with those of the authority in instances where
36 coordination offers opportunities for greater efficiency of
37 investments to improve conditions described in subdivisions (d)
38 and (e) within the territorial jurisdiction of the authority.

39 (h) Adopt a community revitalization and investment plan
40 pursuant to Section 34191.55.

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

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

6 34191.55. An authority shall adopt a community revitalization
7 and investment plan that may include a provision for the receipt
8 of tax increment funds generated within the area according to
9 Section 33670, provided the plan includes each of the following
10 elements:

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

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

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

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

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

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

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

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

3 (1) Prohibits the number of housing units occupied by extremely
4 low, very low, and low-income households, including the number
5 of bedrooms in those units, at the time the plan is adopted, from
6 being reduced in the plan area during the effective period of the
7 plan.

8 (2) Requires the replacement of dwelling units that house
9 extremely low, very low, or low-income households pursuant to
10 subdivision (a) of Section 33413 within two years of their
11 displacement.

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

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

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

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

35 (B) Describe the purpose of the plan.

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

39 (D) Notice of second public hearing shall include a summary
40 of the changes made to the plan as a result of the oral and written

1 testimony received at or before the public hearing and shall identify
2 a location accessible to the public where the plan to be presented
3 at the second public hearing can be reviewed.

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

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

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

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

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

18 34191.59. (a) The plan adopted pursuant to Section 34191.57
19 may include a provision for the receipt of tax increment funds
20 according to Section 33670 in accordance with this section.

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

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

28 (d) At any time prior to or after adoption of the plan, any city,
29 county, or special district, other than a school entity as defined in
30 subdivision (n) of Section 95 of the Revenue and Taxation Code
31 or a successor agency as defined in subdivision (j) of Section
32 34171, that receives ad valorem property taxes from property
33 located within an area may adopt a resolution directing the county
34 auditor-controller to allocate its share of tax increment funds within
35 the area covered by the plan according to Section 33670 to the
36 authority. The resolution adopted pursuant to this subdivision may
37 direct the county auditor-controller to allocate less than the full
38 amount of the tax increment, establish a maximum amount of time
39 in years that the allocation takes place, or limit the use of the funds
40 by the authority for specific purposes or programs. A resolution

1 adopted pursuant to this subdivision may be repealed and be of no
2 further effect by giving the county auditor-controller 60 days'
3 notice; provided, however, that the county auditor-controller shall
4 continue to allocate to the authority the taxing entity's share of ad
5 valorem property taxes that have been pledged to the repayment
6 of debt issued by the authority until the debt has been fully repaid.
7 Prior to adopting a resolution pursuant to this subdivision a city,
8 county, or special district shall approve a memorandum of
9 understanding with the authority governing the authority's use of
10 tax increment funds for administrative and overhead expenses
11 pursuant to subdivision (h) of Section 34191.51.

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

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

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

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

37 34191.61. (a) The authority shall review the plan at least
38 annually and make any amendments that are necessary and
39 appropriate in accordance with the procedures set forth in Section

1 34191.57, and shall require the preparation of an annual
2 independent financial audit paid for from revenues of the authority.

3 (b) An authority shall adopt an annual report on or before June
4 30 of each year after holding a public hearing. Written copies of
5 the draft report shall be made available to the public 30 days prior
6 to the public hearing. The authority shall cause the draft report to
7 be posted in an easily identifiable and accessible location on the
8 authority's Internet Web site and shall mail a written notice of the
9 availability of the draft report on the Internet Web site to each
10 owner of land and each resident within the area covered by the
11 plan and to each taxing entity that has adopted a resolution pursuant
12 to subdivision (d) of Section 34191.59. The notice shall be mailed
13 by first-class mail, but may be addressed to "occupant."

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

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

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

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

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

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

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

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

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

34 (e) Every 10 years, at the public hearing held pursuant to
35 subdivision (b), the authority shall conduct a protest proceeding
36 to consider whether the property owners and residents within the
37 plan area wish to present oral or written protests against the
38 authority. Notice of this protest proceeding shall be included in
39 the written notice of the hearing on the annual report and shall
40 inform the property owner and resident of his or her right to submit

1 an oral or written protest before the close of the public hearing.
2 The protest may state that the property owner or resident objects
3 to the authority taking action to implement the plan on and after
4 the date of the election described in subdivision (f). The authority
5 shall consider all written and oral protests received prior to the
6 close of the public hearing.

7 (f) If there is a majority protest, the authority shall call an
8 election of the property owners and residents in the area covered
9 by the plan, and shall not initiate or authorize any new projects
10 until the election is held. A majority protest exists if protests have
11 been filed representing over 50 percent of the combined number
12 of property owners and residents, at least 18 years of age or older,
13 in the area.

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

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

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

36 (b) Where the audit demonstrates a failure to comply with the
37 requirements of subdivision (h) of Section 34191.55 shall require
38 the authority to adopt and submit to the Controller, as part of the
39 audit, a plan to achieve compliance with those provisions as soon
40 as feasible, but in not less than two years following the findings.

1 The Controller shall review and approve the plan, and require the
2 plan to stay in effect until compliance is achieved. The Controller
3 shall ensure that the plan includes one or more of the following
4 means of achieving compliance:

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

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

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

14 34191.64. (a) If an authority fails to provide a copy of the
15 completed audit to the Controller as required by Section 34191.63
16 within 20 days following receipt of a written notice of the failure
17 from the Controller, the authority shall forfeit to the state:

18 (1) Two thousand five hundred dollars (\$2,500) in the case of
19 an authority with a total revenue, in the prior year, of less than one
20 hundred thousand dollars (\$100,000), as reported in the Controller's
21 annual financial reports.

22 (2) Five thousand five hundred dollars (\$5,500) in the case of
23 an authority with a total revenue, in the prior year, of at least one
24 hundred thousand dollars (\$100,000) but less than two hundred
25 fifty thousand dollars (\$250,000), as reported in the Controller's
26 annual financial reports.

27 (3) Ten thousand dollars (\$10,000) in the case of an authority
28 with a total revenue, in the prior year, of at least two hundred fifty
29 thousand dollars (\$250,000), as reported in the Controller's annual
30 financial reports.

31 (b) If an authority fails to provide a copy of the completed audit
32 to the Controller as required by Section 34191.63 within 20 days
33 after receipt of a written notice pursuant to subdivision (a) for two
34 consecutive years, the authority shall forfeit an amount that is
35 double the amount of the forfeiture assessed pursuant to subdivision
36 (a).

37 (c) (1) If an authority fails to provide a copy of the completed
38 audit to the Controller as required by Section 34191.63 within 20
39 days after receipt of a written notice pursuant to subdivision (a)
40 for three or more consecutive years, the authority shall forfeit an

- 1 amount that is triple the amount of the forfeiture assessed pursuant
2 to subdivision (a).
- 3 (2) The Controller shall conduct, or cause to be conducted, an
4 independent financial audit report.
- 5 (3) The ~~agency~~ *authority* shall reimburse the Controller for the
6 cost of complying with this subdivision.
- 7 (d) Upon the request of the Controller, the Attorney General
8 shall bring an action for the forfeiture in the name of the people
9 of the State of California.
- 10 (e) Upon satisfactory showing of good cause, the Controller
11 shall waive the forfeiture requirements of this section.