

AMENDED IN ASSEMBLY JUNE 20, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 25, 2012

AMENDED IN SENATE APRIL 30, 2012

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1156

Introduced by Senator Steinberg

February 22, 2012

An act to add Part 1.86 (commencing with Section 34191.1) to Division 24 of the Health and Safety Code, and to amend Section 21094.5 of the Public Resources Code, relating to economic development, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1156, as amended, Steinberg. Sustainable Communities Investment Authority.

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 requires that the successor agency, among other things, wind down the affairs of the former redevelopment agency and dispose of assets and properties of the former redevelopment agency, as directed by an oversight board.

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 the legislative bodies of the city and county of a sustainable communities investment area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law, as amended, to increase, improve, and preserve the community’s supply of low- and moderate-income housing available at affordable housing cost in a specified manner. The bill would authorize the authority to adopt a plan for a sustainable communities investment area and to include in that plan a provision for the receipt of tax increment funds provided that specified requirements are met.

The bill would establish prequalification requirements for construction contracts that will receive more than \$1,000,000 from the Sustainable Communities Investment Authority and would require the Department of Industrial Relations to monitor and enforce compliance with prevailing wage requirements for specified projects. The bill would deposit moneys received by the department from developer charges related to the costs of monitoring and enforcement in the State Public Works Enforcement Fund. By depositing a new source of revenue in the State Public Works Enforcement Fund, a continuously appropriated special fund, the bill would make an appropriation.

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

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

1 SECTION 1. Part 1.86 (commencing with Section 34191.1) is
2 added to Division 24 of the Health and Safety Code, to read:

3

4 PART 1.86. ECONOMIC DEVELOPMENT AND HOUSING
5 PROGRAM

6

7 CHAPTER 1. GENERAL PROVISIONS

8

9 34191.1. (a) The Legislature finds and declares that better
10 economic development patterns in California can contribute to
11 greater economic growth by *creating good jobs*, reducing
12 commuter times for employees, reducing the costs of public
13 infrastructure, and reducing energy consumption. Better
14 development patterns may also result in increased options in the

1 type of housing available, more affordable housing, and a reduction
2 in a household's combined housing and transportation costs.

3 (b) The construction industry has been one of the sectors hardest
4 hit by the economic downturn of recent years. Creating incentives
5 for construction can help restore construction *and permanent* jobs,
6 which are essential for a restoration of prosperity.

7 (c) Economic development patterns can also help California
8 attain some of its long-term strategic environmental objectives
9 including reduced air pollution, greater water conservation, reduced
10 energy consumption, and increased farmland and habitat
11 preservation.

12 (d) Implementation of the growth plans identified by the
13 metropolitan planning organizations in their sustainable
14 communities strategies, and in particular the development of areas
15 identified for transit priority projects, is essential if California is
16 to achieve the multiple benefits that would result from economic
17 development. Implementation of growth plans in transit priority
18 areas requires redevelopment of existing developed areas.

19 (e) In addition to economic pressures from the current recession,
20 development of transit priority projects remains challenging.
21 Infrastructure is often old and inadequate. Sites may suffer from
22 contamination that is expensive to remediate. The high construction
23 costs in urban areas, particularly for multifamily dwellings, create
24 an additional challenge. For these reasons, it is critical to restructure
25 and refocus redevelopment in California to assist in achievement
26 of these multiple benefits.

27 (f) At the same time, California cannot afford a redevelopment
28 program that causes schools to lose revenue at a time when
29 investing in education is also key to the state's economic
30 prosperity. A growth plan for the state consistent with regional
31 sustainable communities strategies must also provide that schools
32 are able to play their full role in achieving the future of California.

33 (g) The elimination of redevelopment agencies has resulted in
34 the loss of approximately one billion dollars (\$1,000,000,000)
35 annually in low- and moderate-income housing funds for
36 communities throughout the state. Communities need alternative,
37 permanent sources of revenue to support the continued production
38 of affordable housing units. To this end, it is the intent of the
39 Legislature to preserve the provisions of the Community
40 Redevelopment Law, as it was proposed to have been amended

1 by Senate Bill 450 of the 2011–12 Regular Session, to increase,
 2 improve, and preserve affordable housing through a new economic
 3 development strategy for the state.

4 (h) The Legislature finds that a comprehensive strategy for the
 5 long-term economic development of the state must encourage the
 6 creation of *good jobs and* workforce skills needed to attract and
 7 retain a high-wage workforce, in addition to public infrastructure
 8 requirements. Public investments in human capital are as vital to
 9 the long-term growth of the state’s economy as investments in
 10 physical capital.

11 34191.2. For purposes of this part, “authority” or “Sustainable
 12 Communities Investment Authority” means the entity formed under
 13 Chapter 2 (commencing with Section 34191.10). ~~That entity shall~~
 14 ~~be regarded as an “agency” pursuant to Section 33003.~~

15
 16 CHAPTER 2. SUSTAINABLE COMMUNITIES INVESTMENT
 17 AUTHORITY
 18

19 34191.10. (a) A Sustainable Communities Investment
 20 Authority may be formed after July 1, 2012, to carry out, *to the*
 21 *extent consistent with this part*, the provisions of the Community
 22 Redevelopment Law (Part 1.8 (commencing with Section 33000));
 23 ~~as it is amended by Senate Bill _____ of the 2011–12 Regular~~
 24 ~~Session, to increase, improve, and preserve the community’s supply~~
 25 ~~of low- and moderate-income housing available at an affordable~~
 26 ~~housing cost. The authority shall be deemed to be an “agency”~~
 27 ~~pursuant to Section 33003.~~ An authority may be formed as follows:

28 (1) If the sustainable communities investment area is within an
 29 incorporated area:

30 (A) The legislative bodies of the city and county representing
 31 the geographic territory of a sustainable communities investment
 32 area may form a Sustainable Communities Investment Authority
 33 pursuant to this part by entering into a joint powers authority under
 34 Chapter 5 (commencing with Section 6500) of Title 1 of the
 35 Government Code.

36 (B) The legislative body of the city forms the governing board
 37 and establishes the parameters of the proposed economic
 38 development within a proposed sustainable communities
 39 investment area provided the economic development parameters
 40 are approved by the county.

1 (C) A governing board is appointed for a sustainable
 2 communities investment area ~~consisting of five appointees: two:~~
 3 *three members shall be* appointed by the city with geographic
 4 jurisdiction; *and* two by the county with geographic jurisdiction;
 5 ~~and one appointed by the affected special districts with each district~~
 6 ~~having one vote to select an appointee.~~

7 (D) The legislative body of the city appoints the governing board
 8 and designates a sustainable communities investment area
 9 consisting of a single project and restricts the authority so that 100
 10 percent of tax increment revenue is invested in the project.
 11 Designation of the sustainable communities investment area shall
 12 be subject to county approval.

13 (2) If the sustainable communities investment area is within an
 14 unincorporated area, the authority may be formed by the county
 15 board of supervisors or by the board of supervisors of a city and
 16 county.

17 (b) *The governing board shall consist of five members. The*
 18 *members of any governing board formed pursuant to this part*
 19 *shall be appointed for four-year terms and shall only be removed*
 20 *by the appointing authority for cause. The initial appointees to the*
 21 *governing board shall serve either two-year or four-year terms*
 22 *and shall draw their terms by lot.*

23 ~~(b)~~
 24 (c) The authority may enter into financial and other agreements
 25 with community colleges, K-12 school districts, and private
 26 businesses to facilitate the development and operation of articulated
 27 career technical education pathways, as specified in Section 88532
 28 of the Education Code.

29
 30 CHAPTER 3. FINANCING

31
 32 34191.15. An authority formed pursuant to this part may adopt
 33 a plan for a sustainable communities investment area pursuant to
 34 this section. Notwithstanding any other provision of this division,
 35 a determination shall not be required to be made regarding blight
 36 within the sustainable communities investment area, and an action
 37 shall not be required to be taken for the elimination of blight in
 38 connection with the creation of a plan for a sustainable
 39 communities investment area. The plan shall terminate on a
 40 specified date not to exceed 30 years from the date of the first

1 issuance of bond indebtedness by the authority. A sustainable
2 communities investment area shall include only the following
3 areas:

4 (a) For areas within the geographic boundaries of a metropolitan
5 planning organization where a sustainable communities strategy
6 has been adopted by the metropolitan planning organization, and
7 the State Air Resources Board, pursuant to subparagraph (H) of
8 paragraph (2) of subdivision (b) of Section 65080 of the
9 Government Code, has accepted the metropolitan planning
10 organization's determination that the sustainable communities
11 strategy would, if implemented, achieve the greenhouse gas
12 emission reduction targets:

13 (1) Transit priority areas where a transit priority project, as
14 defined in Section 21155 of the Public Resources Code, may be
15 constructed, provided that if the sustainable communities
16 investment area is based on proximity to a planned major transit
17 stop or a high-quality transit corridor, the stop or the corridor must
18 be scheduled to be completed within the planning horizon
19 established by Section 450.322 of Title 23 of the Code of Federal
20 Regulations. For purposes of this paragraph, a transit priority area
21 may include a military base reuse plan that meets the definition of
22 a transit priority area and it may include a contaminated site within
23 a transit priority area.

24 (2) Areas that are small walkable communities, as defined in
25 paragraph (4) of subdivision (e) of Section 21094.5 of the Public
26 Resources Code, except that small walkable communities may
27 also be designated in a city that is within the area of a metropolitan
28 planning organization. No more than one small walkable
29 community project area shall be designated within a city.

30 (b) Sites that have land use approvals, covenants, conditions
31 and restrictions, or other effective controls restricting the sites to
32 clean energy manufacturing, and that are consistent with the
33 sustainable communities strategy, if those sites are within the
34 geographic boundaries of a metropolitan planning organization.
35 Clean energy manufacturing ~~consists of the manufacture of~~
36 ~~components, parts, or materials for the generation of renewable~~
37 ~~energy resources or for alternative fuel vehicles. shall consist of~~
38 *the manufacturing of any of the following:*

39 (1) *Components, parts, or materials for the generation of*
40 *renewable energy resources.*

1 (2) *Equipment designed to make buildings more energy-efficient*
2 *or the component parts thereof.*

3 (3) *Public transit vehicles or the component parts thereof.*

4 (4) *Alternative fuel vehicles or the component parts thereof.*

5 34191.16. (a) Solely for purposes of Section 16 of Article XVI
6 of the California Constitution, a plan for a sustainable communities
7 investment area adopted pursuant to Section 34191.15 may include
8 a provision for the receipt of tax increment funds according to
9 Section 33670, provided that the local government with land use
10 jurisdiction has adopted all of the following:

11 ~~(1) An analysis of the public service costs and~~
12 ~~revenue-generating impact of new development with respect to~~
13 ~~the provision of basic public services, including police, fire, and~~
14 ~~rescue services. The plan shall include a strategy for mitigating~~
15 ~~unfunded service impacts.~~

16 ~~(2)~~

17 (1) A sustainable parking standards ordinance that restricts
18 parking in transit priority project areas *to encourage transit use to*
19 *the greatest extent feasible.*

20 ~~(3) A~~

21 (2) *An ordinance creating a jobs plan.* All entities receiving
22 financial support from the authority shall ~~incorporate into~~, *at a*
23 *minimum, require that* any and all agreements *approved by the*
24 *authority include* a jobs plan, which shall describe how the project
25 will create construction careers that pay prevailing wages, living
26 wage permanent jobs, and a program for community outreach,
27 local hire, and job training. This plan shall also describe the project
28 developer's commitment to offer jobs to disadvantaged California
29 residents, including veterans of the Iraq and Afghanistan wars,
30 people with a history in the criminal justice system, and
31 single-parent families.

32 ~~(4)~~

33 (3) For transit priority areas and small walkable communities
34 within a metropolitan planning organization, a plan consistent with
35 the use designation, density, building intensity, and applicable
36 policies specified for the sustainable communities investment area
37 in the sustainable communities strategy and that, for new residential
38 construction, provides a density of at least 20 dwelling units per
39 net acre and for nonresidential uses, provides a minimum floor
40 area ratio of 0.75.

1 ~~(5)~~

2 (4) Within small walkable communities outside a metropolitan
3 planning organization, a plan for new residential construction that
4 provides a density of at least 20 dwelling units per net acre and,
5 for nonresidential uses, provides a minimum floor area ratio of
6 0.75.

7 (b) For areas referred to in paragraph (4) of subdivision (a), the
8 authority shall obtain the metropolitan planning organization’s
9 concurrence that the plan is consistent with the use designation,
10 density, building intensity, and applicable policies for the project
11 area in the sustainable communities strategy.

12 (c) For purposes of Section 16 of Article XVI of the California
13 Constitution and in the event a tax increment financing provision
14 is included pursuant to subdivision (a), the terms “district” and
15 “affected taxing entity” shall exclude a school district and special
16 districts.

17 34191.17. The authority shall approve any bond financing
18 under this division.

19 34191.18. A state or local public pension fund system
20 authorized by state law or local charter, respectively, including,
21 but not limited to, the Public Employees’ Retirement System, the
22 State Teachers’ Retirement System, a system established under
23 the County Employees Retirement Law of 1937, Chapter 3
24 (commencing with Section 31450) of Part 3 of Division 4 of Title
25 3 of the Government Code, or an independent system, may invest
26 capital in the public infrastructure projects and private commercial
27 and residential developments undertaken by an authority.

28 34191.19. (a) An authority may exercise the full powers
29 granted under Chapter 2.8 (commencing with Section 53395) of
30 Part 1 of Division 2 of Title 5 of the Government Code and the
31 Marks-Roos Local Bond Pooling Act of 1985 (Article 4
32 (commencing with Section 6584) of Chapter 5 of Division 7 of
33 Title 1 of the Government Code).

34 (b) An authority may implement a local transactions and use
35 tax under Part 1.6 (commencing with Section 7251) of Division 2
36 of the Revenue and Taxation Code, except that the resolution
37 authorizing the tax may designate the use of the proceeds of the
38 tax.

1 (c) An authority may issue bonds paid for with authority
2 proceeds, which shall be deemed to be special funds to be expended
3 by the authority for the purposes of carrying out this part.

4
5 CHAPTER 4. PREQUALIFICATION REQUIREMENTS
6

7 34191.20. All construction contracts in excess of one million
8 dollars (\$1,000,000) on projects that will receive more than one
9 million dollars (\$1,000,000) from the Sustainable Communities
10 Investment Authority, including projects undertaken by private
11 developers, shall comply with the following prequalification
12 process:

13 (a) The authority shall require that each prospective bidder
14 complete and submit to the authority a standardized questionnaire
15 and financial statement in a form specified by the authority;
16 ~~including~~ *that includes* a complete statement of the prospective
17 bidder's financial ability and experience in performing public
18 works. The questionnaire and financial statement shall be verified
19 under oath by the bidder in the manner in which civil pleadings in
20 civil actions are verified. The questionnaires and financial
21 statements shall not be public records and shall not be open to
22 public inspection.

23 (b) The authority shall adopt and apply a uniform system of
24 rating bidders on the basis of the completed questionnaires and
25 financial statements, in order to determine the size of the contracts,
26 if any, upon which each bidder shall be deemed qualified to bid.

27 (c) The questionnaire described in subdivision (a) and the
28 uniform system of rating bidders described in subdivision (b) shall
29 cover, at a minimum, the issues covered by the standardized
30 questionnaire and model guidelines for rating bidders developed
31 by the Department of Industrial Relations pursuant to subdivision
32 (a) of Section 20101 of the Public Contract Code.

33 (d) For purposes of this section, bidders shall include all
34 subcontractors performing work on a contract in excess of 3 percent
35 of the total cost.

36 (e) A bid shall not be accepted from any person or entity who
37 is required to submit a completed questionnaire and financial
38 statement for prequalification pursuant to subdivision (a) but has
39 not done so by the deadline set by the authority or who has not

1 been prequalified by the authority prior to the deadline for
2 submission of bids.

3 (f) This section shall not prevent an authority from establishing
4 additional prequalification requirements.

5 34191.21. (a) (1) The Department of Industrial Relations shall
6 monitor and enforce compliance with prevailing wage requirements
7 for any project paid for in whole or part out of public funds, within
8 the meaning of subdivision (b) of Section 1720 of the Labor Code;
9 ~~including~~ *that include* funds of a Sustainable Communities
10 Investment Authority and shall charge each awarding body or
11 developer for the reasonable and directly related costs of
12 monitoring and enforcing compliance with the prevailing wage
13 requirements on each project.

14 (2) All moneys received by the department pursuant to this
15 section shall be deposited in the State Public Works Enforcement
16 Fund created by Section 1771.3 of the Labor Code.

17 (b) Paragraph (1) of subdivision (a) shall not apply to any project
18 paid for in whole or part out of public funds if the awarding body
19 or developer has entered into a collective bargaining agreement
20 that binds all of the contractors performing work on the project
21 and includes a mechanism for resolving disputes about the payment
22 of wages.

23 SEC. 2. Section 21094.5 of the Public Resources Code is
24 amended to read:

25 21094.5. (a) (1) If an environmental impact report was
26 certified for a planning level decision of a city or county, the
27 application of this division to the approval of an infill project shall
28 be limited to the effects on the environment that (A) are specific
29 to the project or to the project site and were not addressed as
30 significant effects in the prior environmental impact report or (B)
31 substantial new information shows the effects will be more
32 significant than described in the prior environmental impact report.
33 A lead agency's determination pursuant to this section shall be
34 supported by substantial evidence.

35 (2) An effect of a project upon the environment shall not be
36 considered a specific effect of the project or a significant effect
37 that was not considered significant in a prior environmental impact
38 report, or an effect that is more significant than was described in
39 the prior environmental impact report if uniformly applicable
40 development policies or standards adopted by the city, county, or

1 the lead agency, would apply to the project and the lead agency
2 makes a finding, based upon substantial evidence, that the
3 development policies or standards will substantially mitigate that
4 effect.

5 (b) If an infill project would result in significant effects that are
6 specific to the project or the project site, or if the significant effects
7 of the infill project were not addressed in the prior environmental
8 impact report, or are more significant than the effects addressed
9 in the prior environmental impact report, and if a mitigated negative
10 declaration or a sustainable communities environmental assessment
11 could not be otherwise adopted, an environmental impact report
12 prepared for the project analyzing those effects shall be limited as
13 follows:

14 (1) Alternative locations, densities, and building intensities to
15 the project need not be considered.

16 (2) Growth inducing impacts of the project need not be
17 considered.

18 (c) This section applies to an infill project that satisfies both of
19 the following:

20 (1) The project satisfies any of the following:

21 (A) Is consistent with the general use designation, density,
22 building intensity, and applicable policies specified for the project
23 area in either a sustainable communities strategy or an alternative
24 planning strategy for which the State Air Resources Board,
25 pursuant to subparagraph (H) of paragraph (2) of subdivision (b)
26 of Section 65080 of the Government Code, has accepted a
27 metropolitan planning organization's determination that the
28 sustainable communities strategy or the alternative planning
29 strategy would, if implemented, achieve the greenhouse gas
30 emission reduction targets.

31 (B) Consists of a small walkable community project located in
32 an area designated by a city for that purpose.

33 (C) Is located within the boundaries of a metropolitan planning
34 organization that has not yet adopted a sustainable communities
35 strategy or alternative planning strategy, and the project has a
36 residential density of at least 20 units per net acre or a floor area
37 ratio of at least 0.75.

38 (2) Satisfies all applicable statewide performance standards
39 contained in the guidelines adopted pursuant to Section 21094.5.5.

1 (d) This section applies after the Secretary of the Natural
2 Resources Agency adopts and certifies the guidelines establishing
3 statewide standards pursuant to Section 21094.5.5.

4 (e) For the purposes of this section, the following terms mean
5 the following:

6 (1) “Infill project” means a project that meets the following
7 conditions:

8 (A) Consists of any one, or combination, of the following uses:

9 (i) Residential.

10 (ii) Retail or commercial, where no more than one-half of the
11 project area is used for parking.

12 (iii) A transit station.

13 (iv) A school.

14 (v) A public office building.

15 (B) Is located within an urban area on a site that has been
16 previously developed, or on a vacant site where at least 75 percent
17 of the perimeter of the site adjoins, or is separated only by an
18 improved public right-of-way from, parcels that are developed
19 with qualified urban uses.

20 (2) “Planning level decision” means the enactment or
21 amendment of a general plan, community plan, specific plan, or
22 zoning code.

23 (3) “Prior environmental impact report” means the
24 environmental impact report certified for a planning level decision,
25 as supplemented by any subsequent or supplemental environmental
26 impact reports, negative declarations, or addenda to those
27 documents.

28 (4) “Small walkable community project” means a project that
29 is located in a small walkable community project area. A small
30 walkable community project area means an area within an
31 incorporated city that is not within the boundary of a metropolitan
32 planning organization and meets all the following requirements:

33 (A) Has a project area of approximately one-quarter-mile
34 diameter of contiguous land completely within the existing
35 incorporated boundaries of the city.

36 (B) Has a project area that includes a residential area adjacent
37 to a retail downtown area.

38 (C) The project area has an average net density of at least eight
39 dwelling units per net acre or a floor area ratio for retail or
40 commercial use of not less than 0.50. For purposes of this

1 subparagraph: (i) “Floor area ratio” means the ratio of gross
2 building area (GBA) of development, exclusive of structured
3 parking areas, proposed for the project divided by the total net lot
4 area (NLA); (ii) “gross building area” means the sum of all finished
5 areas of all floors of a building included within the outside faces
6 of its exterior walls; and (iii) “net lot area” means the area of a lot
7 excluding publicly dedicated land, private streets that meet local
8 standards, and other public use areas as determined by the local
9 land use authority.

10 (5) “Urban area” includes either an incorporated city or an
11 unincorporated area that is completely surrounded by one or more
12 incorporated cities that meets both of the following criteria:

13 (A) The population of the unincorporated area and the
14 population of the surrounding incorporated cities equal a population
15 of 100,000 or more.

16 (B) The population density of the unincorporated area is equal
17 to, or greater than, the population density of the surrounding cities.

O