

Assembly Bill No. 2280

Passed the Assembly August 27, 2014

Chief Clerk of the Assembly

Passed the Senate August 22, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

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

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

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

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

SEC. 2. Part 1.87 (commencing with Section 34191.50) is 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) 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 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.

(B) No 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 been or will 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 State Controller pursuant to Section 34167.5.

(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.

(C) Deteriorated or inadequate infrastructure such as 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 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.

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

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

(h) (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 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.

34191.53. 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.

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

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

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

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

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

(g) 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 or 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 as determined by the California Environmental Protection Agency pursuant to Section 79505.5 of the Water Code or as defined by Section 56033.5 of the Government Code. 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.

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

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

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

34191.55. An authority shall adopt a community revitalization and investment plan that may include a provision for the receipt

of tax increment funds generated within the area according to Section 33670, provided the plan includes each of the following elements:

- (a) A statement of the principal goals and objectives of the plan.
- (b) A description of the deteriorated or inadequate infrastructure within the area and a program for construction of adequate infrastructure or repair or upgrading of existing infrastructure.
- (c) A program that complies with Sections 33334.2 and all other housing-related provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33300) of Division 24). An authority that includes a provision for the receipt of tax increment revenues pursuant to Section 33670 in its Community Revitalization and Investment Plan shall dedicate at least 25 percent of allocated tax increment revenues for affordable housing purposes. If the authority makes a finding that combining funding received under this program with other funding for the same purpose shall reduce administrative costs or expedite the construction of affordable housing, then an authority may transfer funding from the program to the housing authority within the territorial jurisdiction of the local jurisdiction that created the authority or to the entity that received the housing assets of the former redevelopment agency pursuant to Section 34176; however, Section 34176.1 shall not apply to funds transferred. Funding shall be spent within the project area in which the funds were generated. Any recipient of funds transferred pursuant to this subdivision shall comply with all applicable provisions of the Community Redevelopment Law.
- (d) A program to remedy or remove a release of hazardous substances, if applicable.
- (e) A program to provide funding for or otherwise facilitate the economic revitalization of the area.
- (f) A fiscal analysis setting forth the projected receipt of revenue and projected expenses over a five-year planning horizon, including the potential issuance of bonds backed by tax increment during the term of the plan.
- (g) The time limits imposed by Section 33333.2.
- (h) A program that does both of the following:
 - (1) Prohibits the number of housing units occupied by extremely low, very low, and low-income households, including the number of bedrooms in those units, at the time the plan is adopted, from

being reduced in the plan area during the effective period of the plan.

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

34191.57. (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 all 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 creation of the authority.

(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 first public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the county in which the area lies and shall be mailed to each property owner within the proposed area of the plan. Notice of the second public hearing shall be given by publication not less than 10 days prior to the date of the second public hearing in a newspaper of general circulation published in the county in which the area lies and shall be mailed to each property owner within the proposed area of the plan. 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 to be presented 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.

(i) At the third public hearing, the authority shall consider all written and oral protests received prior to the close of the public hearing. If there is a majority protest, the authority shall call an election of the property owners and residents in the area covered by the plan. 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.

(ii) An election required pursuant to clause (i) 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.

(iii) 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.

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

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

(e) If a majority protest does not exist, 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.

(f) For the purposes of Section 33670, the redevelopment plan shall be the plan adopted pursuant to this section.

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

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

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

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

(d) At any time prior to or after adoption of the plan, any city, county, or special district, other than a school entity as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code or a successor agency as defined in subdivision (j) of Section 34171, that receives ad valorem property taxes from property located within an area may adopt a resolution directing the county auditor-controller to allocate its share of tax increment funds within the area covered by the plan according to Section 33670 to the authority. The resolution adopted pursuant to this subdivision may direct the county auditor-controller to allocate less than the full amount of the tax increment, establish a maximum amount of time in years that the allocation takes place, or limit the use of the funds by the authority for specific purposes or programs. A resolution adopted pursuant to this subdivision may be repealed and be of no further effect by giving the county auditor-controller 60 days' notice; provided, however, that the county auditor-controller shall continue to allocate to the authority the taxing entity's share of ad valorem property taxes that have been pledged to the repayment of debt issued by the authority until the debt has been fully repaid. Prior to adopting a resolution pursuant to this subdivision a city, county, or special district shall approve a memorandum of understanding with the authority governing the authority's use of tax increment funds for administrative and overhead expenses pursuant to subdivision (h) of Section 34191.51.

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

(1) If the authority was formed pursuant to subparagraph (A) of paragraph (1) of subdivision (b) of Section 34191.51, the

authority shall be allocated each year specified in the plan that portion of the taxes levied for each city, county, city and county, and special district that has adopted a resolution pursuant to subdivision (d), in excess of the amount specified in subdivision (a) of Section 33670.

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

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

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

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

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

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

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

(3) The amount of tax increment revenues received.

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

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

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

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

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

(e) Every 10 years, at the public hearing held pursuant to subdivision (b), the authority shall conduct a protest proceeding to consider whether the property owners and residents within the plan area wish to present oral or written protests against the authority. Notice of this protest proceeding shall be included in the written notice of the hearing on the annual report 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 on and after the date of the election described in subdivision (f). The authority shall consider all written and oral protests received prior to the close of the public hearing.

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

(g) An election required pursuant to subdivision (f) 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 holding this election.

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

34191.63. (a) Every five years, beginning in the calendar year in which the authority has allocated a cumulative total of more than one million dollars (\$1,000,000) in tax increment revenues, including any proceeds of a debt issuance, for the purposes of subdivision (c) or Section 34191.55, the authority shall contract for an independent audit to determine compliance with the affordable housing maintenance and replacement requirements of subdivision (h) of Section 34191.55, including provisions to ensure that the requirements are met within each five-year period covered by the audit. The audit shall be conducted according to guidelines established by the Controller, which shall be established on or before December 31, 2020. A copy of the completed audit shall be provided to the Controller. The Controller shall not be required to review and approve the completed audits.

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

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

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

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

(c) If an authority is required to conduct an audit pursuant to subdivision (a) in advance of the issuance of the Controller's guidelines, then it shall prepare an updated audit pursuant to the Controller's guidelines on or before January 1, 2022.

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

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

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

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

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

(c) (1) If an authority fails to provide a copy of the completed audit to the Controller as required by Section 34191.63 within 20 days after receipt of a written notice pursuant to subdivision (a) for three or more consecutive years, the authority shall forfeit an amount that is triple the amount of the forfeiture assessed pursuant to subdivision (a).

(2) The Controller shall conduct, or cause to be conducted, an independent financial audit report.

(3) The authority shall reimburse the Controller for the cost of complying with this subdivision.

(d) Upon the request of the Controller, the Attorney General shall bring an action for the forfeiture in the name of the people of the State of California.

(e) Upon satisfactory showing of good cause, the Controller shall waive the forfeiture requirements of this section.

Approved _____, 2014

Governor