

AMENDED IN SENATE MAY 2, 2013
AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 1

Introduced by Senator Steinberg
(Coauthor: Senator DeSaulnier)

December 3, 2012

An act to add Part 1.86 (commencing with Section 34191.10) 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 1, 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 provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the state.

This bill would authorize certain public entities of a Sustainable Communities Investment Area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would require the authority to adopt a Sustainable Communities Investment Plan for a Sustainable Communities Investment Area and authorize the authority to include in that plan a provision for the receipt of tax

increment funds provided that certain economic development and planning requirements are met. The bill would authorize the legislative body of a city or county forming an authority to dedicate any portion of its net available revenue, as defined, to the authority through its Sustainable Communities Investment Plan. The bill would require the authority to contract for an independent financial and performance audit every 5 years.

The bill would establish prequalification requirements for entities 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 within a Sustainable Communities Investment Area. 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 34191.10)
2 is added to Division 24 of the Health and Safety Code, to read:

3
4 PART 1.86. SUSTAINABLE COMMUNITIES INVESTMENT
5 PROGRAM

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 34191.10. (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 commuter
12 times for employees, reducing the costs of public infrastructure,
13 and reducing energy consumption. Better development patterns
14 may also result in increased options in the type of housing
15 available, more affordable housing, and a reduction in a
16 household's combined housing and transportation costs.

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

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

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

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

25 (f) At the same time, California cannot afford a redevelopment
26 program that causes schools to lose revenue at a time when
27 investing in education is also key to the state's economic
28 prosperity. A growth plan for the state consistent with regional
29 sustainable communities strategies must also provide that schools
30 are able to play their full role in achieving the future of California.
31 In this regard, Section 16 of Article XVI of the California
32 Constitution does not require that all taxing agencies set aside their
33 portion of future property tax for tax increment. It defines taxing
34 agencies disjunctively as "any city, county, city and county, district,
35 or other public corporation."

36 (g) The elimination of redevelopment agencies has resulted in
37 the loss of approximately one billion dollars (\$1,000,000,000)
38 annually in low- and moderate-income housing funds for
39 communities throughout the state. Communities need alternative

1 sources of revenue to support the continued production of
2 affordable housing units.

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

10 34191.11. The Legislature further finds and declares that
11 inefficient land use patterns cause an increased economic burden
12 on taxpayers for the costs of an inefficient transportation
13 infrastructure, and create a high combined economic cost of
14 housing and transportation for California residents. These
15 development patterns have also contributed to declining property
16 values and foreclosures in many communities. They create further
17 economic risks for the agricultural industry, the largest industry
18 in California, through the loss of critical farmland. They also result
19 in increased air pollution, energy consumption, and greenhouse
20 gas emissions which impose additional costs on business and
21 damage public health. They also lead to inefficient consumption
22 of water, a critical resource for all of California.

23 34191.12. The Legislature finds and declares that the
24 interrelated problems identified in this chapter are a form of blight
25 that can be addressed through a new Sustainable Communities
26 Investment Program.

27 34191.13. In order to more effectively address blight, the
28 program shall be established to support development in transit
29 priority project areas and small walkable communities and to
30 support clean energy manufacturing through tax increment revenue.
31 This new program shall use tax increment revenue to fight blight
32 as it is understood in the contemporary setting without including
33 those aspects of the former redevelopment program that created
34 so much controversy, including the manipulation of the definition
35 of blight and the use of the school share of tax increment revenue,
36 such that it became a drain on the General Fund. The new program,
37 focused on certain geographic areas and sites, shall require greater
38 levels of intergovernmental collaboration.

39 34191.14. It is the intent of the Legislature in establishing the
40 Sustainable Communities Investment Program to create a new,

1 collaborative structure for the creation of a governing board for a
2 Sustainable Communities Investment Authority and to allow
3 governmental entities through a consensual process to invest tax
4 increment revenue to relieve conditions of blight as prescribed by
5 the Legislature. The new authority shall have new planning
6 obligations and, in particular, shall have a new focus on the job
7 creation associated with new economic development. To the extent
8 not inconsistent with the new program, the authority shall be able
9 to exercise the powers of the former redevelopment agencies, but
10 only as part of this newly created and reformed program.

11 34191.15. For purposes of this part, “authority” or “Sustainable
12 Communities Investment Authority” means the entity formed under
13 Chapter 2 (commencing with Section 34191.20).

14

15 CHAPTER 2. SUSTAINABLE COMMUNITIES INVESTMENT
16 AUTHORITY

17

18 34191.20. (a) A Sustainable Communities Investment
19 Authority is a public body, corporate and politic, that may be
20 created by the appointment of a governing board as provided in
21 subdivision (e). The authority shall comply with the provisions of
22 this part, the Community Redevelopment Law (Part 1 (commencing
23 with Section 33000)), excluding Sections 33401, 33492.140, 33607,
24 33607.5, 33607.7, 33676, and any other similar payment provision
25 of that part, Part 1.5 (commencing with Section 34000), Part 1.6
26 (commencing with Section 34050), and Part 1.7 (commencing
27 with Section 34100), to the extent not inconsistent with this part.
28 The authority shall not be subject to the provisions of Part 1.8
29 (commencing with Section 34161) and Part 1.85 (commencing
30 with Section 34170).

31 (b) The authority shall be deemed to be an “agency” pursuant
32 to Section 33003 and shall have all the rights, responsibilities, and
33 obligations of an agency. For purposes of this part, a project area
34 shall be referred to as a Sustainable Communities Investment Area
35 and a redevelopment plan shall be referred to as a Sustainable
36 Communities Investment Plan.

37 (c) An authority created pursuant to this part may rely on the
38 legislative determination of blight and shall not be required to
39 make a separate finding of blight or conduct a survey of blight
40 within the project area.

1 (d) A city or county that created a redevelopment agency that
2 was dissolved pursuant to Part 1.85 (commencing with Section
3 34170) of Division 24 shall not form a Sustainable Communities
4 Investment Authority under this section unless the successor agency
5 or designated local authority for the former redevelopment agency
6 has received a finding of completion from the Department of
7 Finance pursuant to Section 34179.7.

8 (e) An authority may be created as follows:

9 (1) A city, county, city and county, or a special district may
10 create an authority pursuant to this part by entering into a joint
11 powers agreement under Chapter 5 (commencing with Section
12 6500) of Division 7 of Title 1 of the Government Code. The joint
13 powers agreement shall establish a governing board and designate
14 the Sustainable Communities Investment Area.

15 (2) A city may create an authority, appoint the authority
16 governing board, designate a Sustainable Communities Investment
17 Area within the city's incorporated area, and establish the
18 parameters of the proposed economic development within a
19 proposed Sustainable Communities Investment Area with county
20 approval of the economic development parameters and the
21 Sustainable Communities Investment Plan, including any
22 amendments to the plan.

23 (3) A city and a county may create an authority and appoint the
24 authority governing board, which shall be comprised of two
25 members appointed by the city and two members appointed by the
26 county. A fifth member shall be appointed by the two city and the
27 two county members. The governing board shall designate the
28 Sustainable Communities Investment Area. A Sustainable
29 Communities Investment Plan, including any amendments to it,
30 shall be approved by both the city and the county. The Sustainable
31 Communities Investment Area may include an incorporated area
32 or both an incorporated area and an unincorporated area.

33 (4) If the Sustainable Communities Investment Area is within
34 an unincorporated area, the board of supervisors of a county may
35 create an authority and appoint the authority governing board.

36 (5) A city may create an authority, which shall constitute a
37 legally distinct entity from that city, and appoint the authority
38 governing board, which may designate a Sustainable Communities
39 Investment Area only within the incorporated limits of that city.

1 (f) If an authority is created pursuant to this section by an entity
2 that is a city and county the governing body shall be composed of
3 five members appointed by the mayor of the city, if that
4 appointment is subject to confirmation by the county board of
5 supervisors.

6 (g) Any city or county approval under this section shall be by
7 resolution of the legislative body.

8 (h) A taxing agency participating in or approving the formation
9 of a Sustainable Communities Investment Authority or appointing
10 governing board members may authorize an allocation to the
11 authority of all or part of the tax increment revenue that otherwise
12 would be paid to that taxing agency.

13 (i) A governing board appointed pursuant to this section shall
14 consist of five members. The members of any governing board
15 formed pursuant to this part shall be appointed for four-year terms
16 and shall be removed by the appointing authority only for cause.
17 The initial appointees to the governing board shall serve either
18 two-year or four-year terms and shall draw their terms by lot. An
19 authority created pursuant to this section shall be deemed to be a
20 local public agency subject to the Ralph M. Brown Act (Chapter
21 9 (commencing with Section 54950) of Part 1 of Division 2 of
22 Title 5 of the Government Code), the California Public Records
23 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
24 of Title 1 of the Government Code), the Meyers-Miliias-Brown
25 Act (Chapter 10 (commencing with Section 3500) of Division 4
26 of Title 1 of the Government Code), and the Political Reform Act
27 of 1974 (Title 9 (commencing with Section 81000) of the
28 Government Code). The governing board shall adopt policies
29 regarding the use of personal service contracts to the standards set
30 forth in Section 19130 of the Government Code that apply to the
31 authority and its employees.

32 (j) A school district shall be excluded from participating in a
33 Sustainable Communities Investment Authority.

34

35 CHAPTER 3. SUSTAINABLE COMMUNITIES INVESTMENT AREAS

36

37 34191.25. ~~(a)~~—A Sustainable Communities Investment Area
38 shall include only the following:

39

(+)

1 (a) Transit priority project areas, which are areas where a transit
2 priority project, as defined in Section 21155 of the Public
3 Resources Code, may be constructed, provided that if the
4 Sustainable Communities Investment Area is based on proximity
5 to a planned major transit stop or a high-quality transit corridor,
6 the stop or the corridor must be scheduled to be completed within
7 the planning horizon established by Section 450.322 of Title 23
8 of the Code of Federal Regulations. For purposes of this paragraph,
9 a transit priority project area may include a military base reuse
10 plan that meets the definition of a transit priority project area and
11 it may include a contaminated site within a transit priority project
12 area.

13 ~~(A)~~

14 (1) If the Sustainable Communities Investment Area includes
15 a high-speed rail station, the radius of the area may be up to one
16 mile from a high-speed rail station. If the project area consists of
17 a radius greater than one-half of one mile, at least 50 percent of
18 tax increment revenue derived from the area shall be used to
19 support construction of the high-speed rail station and related
20 infrastructure.

21 ~~(B)~~

22 (2) All or part of a transit priority project area may be included
23 in the Sustainable Communities Investment Area or an area may
24 include one or more contiguous transit priority project areas. One
25 or more Sustainable Communities Investment Areas may be created
26 pursuant to subdivision (e) of Section 34191.20.

27 ~~(C)~~

28 (3) Transit priority project areas shall be within the geographic
29 boundaries of a metropolitan planning organization in which a
30 sustainable communities strategy has been adopted by the
31 metropolitan planning organization, and the State Air Resources
32 Board, pursuant to subparagraph (H) of paragraph (2) of
33 subdivision (b) of Section 65080 of the Government Code, has
34 accepted the metropolitan planning organization's determination
35 that the sustainable communities strategy would, if implemented,
36 achieve the region's greenhouse gas emission reduction targets.

37 ~~(2)~~

38 (b) Areas that are small walkable communities, as defined in
39 paragraph (4) of subdivision (e) of Section 21094.5 of the Public
40 Resources Code, except that small walkable communities may

1 also be designated in a city that is within the area of a metropolitan
2 planning organization. No more than one small walkable
3 community project area shall be designated within a city. All or
4 part of a small walkable community may be included in the
5 Sustainable Communities Investment Area.

6 ~~(b)~~

7 (c) Sites that have land use approvals, covenants, conditions
8 and restrictions, or other effective controls restricting the sites to
9 clean energy manufacturing, and that are consistent with the use,
10 designation, density, building intensity, and applicable policies
11 specified for the Sustainable Communities Investment Area in the
12 applicable sustainable communities strategy, if those sites are
13 within the geographic boundaries of a metropolitan planning
14 organization. Clean energy manufacturing shall consist of the
15 manufacturing of any of the following:

- 16 (1) Components, parts, or materials for the generation of
17 renewable energy resources.
- 18 (2) Equipment designed to make buildings more energy efficient
19 or the component parts thereof.
- 20 (3) Public transit vehicles or the component parts thereof.
- 21 (4) Alternative fuel vehicles or the component parts thereof.

22

23 CHAPTER 4. SUSTAINABLE COMMUNITIES INVESTMENT PLAN

24

25 34191.26. A Sustainable Communities Investment Plan may
26 include a provision for the receipt of tax increment funds according
27 to Section 33670, provided that the local government with land
28 use jurisdiction has adopted ~~both~~ all of the following:

- 29 (a) A sustainable parking standards ordinance that restricts
30 parking in transit priority project areas to encourage transit use to
31 the greatest extent feasible.
- 32 (b) An ordinance creating a jobs plan that requires all entities
33 receiving financial support from the authority to enter into an
34 agreement with the authority describing how the project will do
35 both of the following:
 - 36 (1) Further construction careers that pay prevailing wages and
37 create living wage permanent jobs.
 - 38 (2) Implement a program for community outreach, local hire,
39 and job training that includes disadvantaged California residents,

1 including veterans of the Iraq and Afghanistan wars, people with
2 a history in the criminal justice system, and single-parent families.

3 (c) For transit priority project areas and small walkable
4 communities within a metropolitan planning organization, a plan
5 consistent with the use designation, density, building intensity,
6 and applicable policies specified for the Sustainable Communities
7 Investment Area in the sustainable communities strategy.

8 (d) Within small walkable communities outside a metropolitan
9 planning organization, a plan for new residential construction that
10 provides a density of at least 20 dwelling units per net acre and,
11 for nonresidential uses, provides a minimum floor area ratio of
12 0.75.

13 (e) An ordinance that does both of the following:

14 (1) Prohibits the number of housing units occupied by extremely
15 low, very low, and low-income households, including the number
16 of bedrooms in those units, in the Sustainable Communities
17 Investment Area at the time the Sustainable Communities
18 Investment Authority is established from being reduced during the
19 effective period of the Sustainable Communities Investment Plan.

20 (2) Requires the replacement of dwelling units that house
21 extremely low, very low, or low-income households, upon their
22 removal from the Sustainable Communities Investment Area,
23 pursuant to subdivision (a) of Section 33413 within two years of
24 their displacement.

25 34191.27. (a) Upon adoption of a Sustainable Communities
26 Investment Plan that includes the tax increment financing provision
27 authorized by Section 34191.26, the county auditor-controller shall
28 allocate tax increment revenue to the authority as follows:

29 (1) If the authority was formed pursuant to paragraph (1) of
30 subdivision (e) of Section 34191.20, the authority shall be allocated
31 each year specified in the plan that portion of the levied taxes for
32 each city, county, city and county, and special district that is a
33 party to the joint powers authority in excess of the amount specified
34 in subdivision (a) of Section 33670.

35 (2) If the authority was formed pursuant to paragraph (2) or (3)
36 of subdivision (e) of Section 34191.20, the authority shall be
37 allocated each year specified in the plan that portion of the levied
38 taxes for the city and the county in excess of the amount specified
39 in subdivision (a) of Section 33670.

1 (3) If the authority was formed pursuant to paragraph (4) of
2 subdivision (e) of Section 34191.20, the authority shall be allocated
3 each year specified in the plan that portion of the levied taxes for
4 the county in excess of the amount specified in subdivision (a) of
5 Section 33670.

6 (4) If the authority was formed pursuant to paragraph (5) of
7 subdivision (e) of Section 34191.20, the authority shall be allocated
8 each year specified in the plan that portion of the levied taxes for
9 the city in excess of the amount specified in subdivision (a) of
10 Section 33670.

11 (5) Any city, county, city and county, or special district may,
12 by resolution of its board, authorize the county auditor-controller
13 to allocate that portion of the levied taxes for that entity in excess
14 of the amount specified in subdivision (a) of Section 33670.

15 (6) Any allocation of revenues to the authority made pursuant
16 to this subdivision shall be adjusted to comply with the provisions
17 of subdivision (h) of Section 34191.20.

18 (7) Proceeds of taxes levied for a school district that are in
19 excess of the amount specified in subdivision (a) of Section 33670
20 shall not be pledged or allocated to an authority created by any of
21 the governance structures specified in subdivision (e) of Section
22 34191.20.

23 (8) Notwithstanding any other law, the county auditor-controller
24 shall allocate to the authority a taxing agency's portion of tax
25 increment revenues only if the governing body of the taxing agency
26 adopts a resolution authorizing the allocation. A taxing agency
27 that adopts a resolution shall not revoke the county
28 auditor-controller's authority pursuant to this section if revocation
29 would impair the authority's ability to honor existing obligations
30 secured by tax increment revenues.

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

1 (c) The legislative body of the city or county forming an
2 authority may choose to dedicate any portion of its net available
3 revenue to the authority through the Sustainable Communities
4 Investment Plan. The plan shall state that net available revenue
5 from the city or county may be used by the authority in accordance
6 with this part, and state the maximum portion of the net available
7 revenue to be committed to the authority for each year during
8 which the authority will receive these revenues. The portion may
9 vary over time. The plan shall state the date upon which the
10 authority will cease to receive net available revenue. The city or
11 county may direct the county auditor-controller to transfer any
12 portion of the net available revenue to the authority and the county
13 auditor-controller may collect administrative costs from the
14 authority.

15 (d) For purposes of this section, “net available revenue” means
16 periodic distributions to the city or county from the Redevelopment
17 Property Tax Trust Fund, created pursuant to Section 34170.5,
18 that are available to the city or county after all preexisting legal
19 commitments and statutory obligations funded from that revenue
20 are made pursuant to Part 1.85 (commencing with Section 34170).
21 Net available revenue shall include only revenue remaining after
22 all current distributions, including, but not limited to, payment of
23 enforceable obligations, all distributions to other taxing entities,
24 and applicable administrative fees, have been made.

25 (e) In accordance with Section 33334.2 and all other applicable
26 affordable housing provisions of the Community Redevelopment
27 Law (Part 1 (commencing with Section 33000)), an authority that
28 includes in its Sustainable Communities Investment Plan a
29 provision for the receipt of tax increment revenues according to
30 Section 33670 shall dedicate no less than 25 percent of allocated
31 tax increment revenues for affordable housing purposes.

32 34191.28. A Sustainable Communities Investment Plan, in
33 addition to the applicable requirements of Part 1 (commencing
34 with Section 33000) shall include all of the following:

35 (a) A fiscal analysis setting forth the projected receipt of tax
36 increment and other revenue and projected expenses over five-year
37 planning horizons for the life of the authority.

38 (b) A statement of the principal goals and objectives of the plan
39 together with findings of the public purposes and uses that will be
40 achieved.

1 (c) A statement of how the plan will relieve blight as follows:

2 (1) How it will implement the goals of a sustainable
3 communities strategy, if the Sustainable Communities Investment
4 Area is within a metropolitan planning organization.

5 (2) How it will contribute to ~~a more efficient transportation~~
6 ~~infrastructure.~~ *transportation.*

7 (3) How it will contribute to a reduced cost for the combined
8 costs of housing and transportation for California residents.

9 (4) How it will contribute to improved public health.

10 (5) How it will promote more efficient water consumption.

11 (6) How it will avoid loss of prime farmland.

12 (7) How it will reduce air pollution, energy consumption,
13 ~~emission~~ and greenhouse gas emissions by reducing vehicle miles
14 traveled.

15 (8) How it will reduce energy consumption by facilitating clean
16 energy manufacturing.

17 (9) How it will ensure compliance with the affordable housing
18 maintenance and preservation requirements contained in
19 subdivision (e) of Section 34191.26.

20 (d) A statement of how the plan will implement the sustainable
21 parking standards adopted pursuant to subdivision (a) of Section
22 34191.26.

23 (e) A statement of how the plan will implement the jobs plan
24 adopted pursuant to subdivision (b) of Section 34191.26.

25 (f) In addition to satisfying the requirements of Part 1
26 (commencing with Section 33000), a Sustainable Communities
27 Investment Plan may include, to the extent applicable to the area,
28 any of the following:

29 (1) Farmworker housing.

30 (2) Transitional and supportive housing including, but not
31 limited to, former foster youth, persons with mental health
32 treatment needs, persons with substance use disorder treatment
33 needs, and various offender populations.

34 (3) Health and safety related infrastructure investments for
35 disadvantaged and rural communities.

36 (4) Infrastructure investments to support countywide services
37 including, but not limited to, health clinics, hospitals, medical
38 provider offices, child care facilities, day reporting centers, and
39 grocery stores in food desert areas.

1 34191.29. A state or local public pension fund system
2 authorized by state law or local charter, respectively, including,
3 but not limited to, the Public Employees' Retirement System, the
4 State Teachers' Retirement System, a system established under
5 the County Employees Retirement Law of 1937 (Chapter 3
6 (commencing with Section 31450) of Part 3 of Division 4 of Title
7 3 of the Government Code), or an independent system, may invest
8 capital in the public infrastructure projects and private commercial
9 and residential developments undertaken by an authority.

10 34191.30. (a) An authority may exercise the full powers
11 granted under Chapter 2.8 (commencing with Section 53395) of
12 Part 1 of Division 2 of Title 5 of the Government Code and the
13 Marks-Roos Local Bond Pooling Act of 1985 (Article 4
14 (commencing with Section 6584) of Chapter 5 of Division 7 of
15 Title 1 of the Government Code).

16 (b) An authority may implement a local transactions and use
17 tax under Part 1.6 (commencing with Section 7251) of Division 2
18 of the Revenue and Taxation Code, except that the resolution
19 authorizing the tax may designate the use of the proceeds of the
20 tax.

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

24 (d) School district property tax revenues shall not be pledged
25 for the repayment of bonds issued by the authority.

26 34191.31. (a) Every five years the authority shall contract for
27 an independent financial and performance audit. The audit shall
28 be conducted according to guidelines established by the Controller.
29 A copy of the completed audit shall be provided to the Controller,
30 the Director of the Department of Finance, and to the Joint
31 Legislative Budget Committee. The Controller shall not be required
32 to review and approve the completed audits.

33 (b) The guidelines established by the Controller shall include
34 guidelines for determining compliance with the affordable housing
35 maintenance and replacement requirements of subdivision (e) of
36 Section 34191.26, including provisions to ensure that the
37 requirements are met within each five-year period covered by the
38 audit. A finding of failure to comply with the requirements of
39 subdivision (e) of Section 34191.26 shall require the authority to
40 adopt and submit to the Controller, as part of the audit, a plan to

1 achieve compliance with those provisions as soon as feasible but
2 in not less than two years following the findings. The Controller
3 shall review and approve the plan, and require the plan to stay in
4 effect until compliance is achieved. The Controller shall ensure
5 that the plan includes one or more of the following means of
6 achieving compliance:

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

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

13 (3) The targeting of expenditures pursuant to Section ~~3334.2~~
14 ~~33334.2~~ exclusively to rental housing affordable to, and occupied
15 by, persons of very low and extremely low income.

16

17 CHAPTER 5. PREQUALIFICATION REQUIREMENTS

18

19 34191.35. All entities that will receive in excess of one million
20 dollars (\$1,000,000) from the Sustainable Communities Investment
21 Authority, including projects undertaken by private developers,
22 shall comply with the following prequalification process for all
23 construction contracts or subcontracts:

24 (a) The entity shall require that each prospective bidder on a
25 construction contract complete and submit to the authority a
26 standardized questionnaire and financial statement in a form
27 specified by the authority that includes a complete statement of
28 the prospective bidder's financial ability and experience in
29 performing large construction contracts. The questionnaire and
30 financial statement shall be verified under oath by the bidder in
31 the manner in which civil pleadings in civil actions are verified.
32 The questionnaires and financial statements shall not be public
33 records and shall not be open to public inspection.

34 (b) The entity receiving funding from the authority shall adopt
35 and apply a uniform system of rating bidders on the basis of the
36 completed questionnaires and financial statements, in order to
37 determine the size of the contracts, if any, upon which each bidder
38 shall be deemed qualified to bid.

39 (c) The questionnaire described in subdivision (a) and the
40 uniform system of rating bidders described in subdivision (b) shall

1 cover, at a minimum, the issues covered by the standardized
2 questionnaire and model guidelines for rating bidders developed
3 by the Department of Industrial Relations pursuant to subdivision
4 (a) of Section 20101 of the Public Contract Code.

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

8 (e) A bid shall not be accepted from any person or entity who
9 is required to submit a completed questionnaire and financial
10 statement for prequalification pursuant to subdivision (a) but has
11 not done so by the deadline set by the entity or who has not been
12 prequalified by the authority prior to the deadline for submission
13 of bids.

14 (f) This section shall not prevent an entity or the authority itself
15 from establishing additional prequalification requirements.

16 34191.36. (a) (1) Within a Sustainable Communities
17 Investment Area, the Department of Industrial Relations shall
18 monitor and enforce compliance with prevailing wage requirements
19 for any project paid for in whole or part out of public funds, within
20 the meaning of subdivision (b) of Section 1720 of the Labor Code
21 that include funds of a Sustainable Communities Investment
22 Authority and shall charge each awarding body or developer for
23 the reasonable and directly related costs of monitoring and
24 enforcing compliance with the prevailing wage requirements on
25 each project.

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

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

35 SEC. 2. Section 21094.5 of the Public Resources Code is
36 amended to read:

37 21094.5. (a) (1) If an environmental impact report was
38 certified for a planning level decision of a city or county, the
39 application of this division to the approval of an infill project shall
40 be limited to the effects on the environment that (A) are specific

1 to the project or to the project site and were not addressed as
2 significant effects in the prior environmental impact report or (B)
3 substantial new information shows the effects will be more
4 significant than described in the prior environmental impact report.
5 A lead agency's determination pursuant to this section shall be
6 supported by substantial evidence.

7 (2) An effect of a project upon the environment shall not be
8 considered a specific effect of the project or a significant effect
9 that was not considered significant in a prior environmental impact
10 report, or an effect that is more significant than was described in
11 the prior environmental impact report if uniformly applicable
12 development policies or standards adopted by the city, county, or
13 the lead agency, would apply to the project and the lead agency
14 makes a finding, based upon substantial evidence, that the
15 development policies or standards will substantially mitigate that
16 effect.

17 (b) If an infill project would result in significant effects that are
18 specific to the project or the project site, or if the significant effects
19 of the infill project were not addressed in the prior environmental
20 impact report, or are more significant than the effects addressed
21 in the prior environmental impact report, and if a mitigated negative
22 declaration or a sustainable communities environmental assessment
23 could not be otherwise adopted, an environmental impact report
24 prepared for the project analyzing those effects shall be limited as
25 follows:

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

28 (2) Growth inducing impacts of the project need not be
29 considered.

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

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

33 (A) Is consistent with the general use designation, density,
34 building intensity, and applicable policies specified for the project
35 area in either a sustainable communities strategy or an alternative
36 planning strategy for which the State Air Resources Board,
37 pursuant to subparagraph (H) of paragraph (2) of subdivision (b)
38 of Section 65080 of the Government Code, has accepted a
39 metropolitan planning organization's determination that the
40 sustainable communities strategy or the alternative planning

1 strategy would, if implemented, achieve the greenhouse gas
2 emission reduction targets.

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

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

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

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

15 (e) For the purposes of this section, the following terms mean
16 the following:

17 (1) “Infill project” means a project that meets the following
18 conditions:

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

20 (i) Residential.

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

23 (iii) A transit station.

24 (iv) A school.

25 (v) A public office building.

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

31 (2) “Planning level decision” means the enactment or
32 amendment of a general plan, community plan, specific plan, or
33 zoning code.

34 (3) “Prior environmental impact report” means the
35 environmental impact report certified for a planning level decision,
36 as supplemented by any subsequent or supplemental environmental
37 impact reports, negative declarations, or addenda to those
38 documents.

39 (4) “Small walkable community project” means a project that
40 is located in a small walkable community project area. A small

1 walkable community project area means an area within an
2 incorporated city that is not within the boundary of a metropolitan
3 planning organization and meets all of the following requirements:

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

7 (B) Has a project area that includes a residential area adjacent
8 to a retail downtown area.

9 (C) The project area has an average net density of at least eight
10 dwelling units per net acre or a floor area ratio for retail or
11 commercial use of not less than 0.50. For purposes of this
12 subparagraph: (i) “floor area ratio” means the ratio of gross
13 building area (GBA) of development, exclusive of structured
14 parking areas, proposed for the project divided by the total net lot
15 area (NLA); (ii) “gross building area” means the sum of all finished
16 areas of all floors of a building included within the outside faces
17 of its exterior walls; and (iii) “net lot area” means the area of a lot
18 excluding publicly dedicated land, private streets that meet local
19 standards, and other public use areas as determined by the local
20 land use authority.

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

24 (A) The population of the unincorporated area and the
25 population of the surrounding incorporated cities equal a population
26 of 100,000 or more.

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