

Date of Hearing: April 17, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 1080 (Alejo) – As Amended: April 4, 2013

SUBJECT: Community Revitalization and Investment Authority

SUMMARY: Allows local governments to establish a Community Revitalization and Investment Authority (Authority) in a disadvantaged community to fund specified activities and allows the Authority to collect tax increment. Specifically, this bill:

- 1) Includes legislative findings regarding the intent of the Legislature to create a planning and financing tool to support the revitalization of disadvantaged communities.
- 2) Establishes an Authority as a public body to carry out a community revitalization plan (plan) within a community revitalization investment area (area).
- 3) Provides that for the purposes of receiving tax increment revenues, pursuant to Article XVI of Section 16 of the California Constitution, an Authority is a redevelopment agency.
- 4) Allows an Authority to be created in either of the following ways:
 - a) A city, county, or city and county may adopt a resolution creating the Authority. The governing board must include three members of the governing board of the city, county, or city and county that created the authority and two public members who live or work in the area; or
 - b) A city, county, city and county, and special district may create an Authority by entering into a joint powers agreement that shall establish the composition of the governing board, which must include two public members who live or work in the area.
- 5) Allows an Authority to establish an area if at least 80% of the land, calculated by census tract, is characterized by both of the following conditions:
 - a) An annual median income that is less than 80% of the statewide annual median income; and
 - b) Three of the following four conditions exist:
 - i. Unemployment that is at least 3% higher than the statewide median unemployment rate;
 - ii. A crime rate that is 5% higher than the statewide median crime rate;
 - iii. Deteriorated or inadequate infrastructure such as streets, sidewalks, water supply, sewer treatment or processing, and parks; and
 - iv. Deteriorated commercial or residential structures.

- 6) Provides that the conditions in (b) above constitute blight for the meaning of Community Redevelopment Law.
- 7) Provides that the Authority is not required to make a finding or conduct a survey of blight.
- 8) Allows an Authority to establish an Area in a former military base that is principally characterized by deteriorated or inadequate infrastructure and structures.
- 9) Requires a governing board of an Authority established in a former military base to include, as one of its public members, a member of the military base closure commission.
- 10) Subjects an Authority to the Ralph M. Brown Act.
- 11) Allows an Authority to do any of the following:
 - a) Provide funding to rehabilitate, repair, upgrade, or construct infrastructure;
 - b) Provide funding for low- and moderate-income housing;
 - c) Remedy or remove hazardous substances pursuant to the Polanco Redevelopment Act;
 - d) Provide for seismic retrofits of existing buildings;
 - e) Acquire and transfer property subject to eminent domain;
 - f) Prepare and adopt a plan for an area subject to Community Redevelopment Law;
 - g) Issue bonds;
 - h) Borrow money, receive grants, or accept financial or other assistance or investment from the state and federal government or any private lending institution for any project within its area of operation;
 - i) Receive funding from the California Environmental Protection Agency under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000;
 - j) Coordinate with a qualified community development entity to maximize the benefit of New Markets Tax Credits;
 - k) Appropriate funding that the governing body deems appropriate for administrative expenses;
 - l) Make loans or grants for owners or tenants to improve, rehabilitate, or retrofit buildings or structures in the area; and
 - m) Provide direct assistance to businesses within the plan in connection with new or existing facilities for industrial or manufacturing uses.

- 12) Allows money appropriated to the Authority from the legislative body or bodies that created the Authority for administrative expenses to be paid as a loan or grant.
- 13) Provides that if the Authority is loaned funding for administrative expenses, the property owners within the plan area will be made third party beneficiaries of the repayment of the loan.
- 14) Provides that in addition to the common understanding and usual interpretation, the term "administrative expenses" includes, but is not limited to, expenses for planning and dissemination of information.
- 15) Allows an Authority to adopt a plan to receive tax increment generated in an area. The plan must include the following:
 - a) A statement of the principal goals and objectives;
 - b) A description of the deteriorated or inadequate infrastructure within the area and a program for construction, repair, or upgrade of existing infrastructure;
 - c) A program to spend 20% of the tax increment collected to increase, improve, and preserve the community's supply of low- and moderate-income housing;
 - d) A program to remedy and remove a release of hazardous substances;
 - e) A program to fund or facilitate economic revitalization of the area; and
 - f) A fiscal analysis of the projected receipt of revenue and projected expenses over a five year planning period.
- 16) Allows an Authority to transfer funding for affordable housing to a private nonprofit corporation, housing authority, or the entity that received the housing assets of the former redevelopment agency within the territorial jurisdiction of the local jurisdiction of the Authority, if it makes a finding that the transfer will reduce administrative costs or expedite the construction of affordable housing.
- 17) Establishes a public process for adopting a plan to receive tax increment generated in an Area that must include the following:
 - a) The Authority must hold two public hearings at least 30 days apart;
 - b) The plan must be made available to the public and to each property owner within the area at a meeting held at least 30 days prior to notice of the first public hearing;
 - c) Notice of the first public hearing must be given at least once a week for four weeks prior to the hearing in a newspaper of general circulation and mailed to each property owner in the proposed area of the plan.

- d) Notice of the second public hearing must be given not less than ten days prior to the date of the second hearing in a newspaper of general circulation and mailed to each property owner in the area of the plan.
- 18) Requires a notice informing the public and property owners in the area of a public hearing to discuss the plan to receive tax increment to include:
 - a) The specific boundaries of the proposed area;
 - b) The purpose of the plan;
 - c) The time and place of the public hearing; and
 - d) Requires that notice of the second hearing must include a summary of the changes made to the plan from the first hearing.
- 19) Allows the Authority to inform tenants of properties in the area of the plan to receive tax increment in a manner of its choosing.
- 20) Allows an Authority to adopt a plan by ordinance at the conclusion of the second public hearing.
- 21) Allows an Authority to begin receiving tax increment funds beginning on the first December 1 after the plan is adopted.
- 22) Allows any taxing entity other than a school entity that receives property taxes in an area to adopt a resolution, prior to the adoption of the plan, to direct the county auditor-controller to allocate its share of tax increment funds to the Authority.
- 23) Allows the resolution adopted by a taxing entity directing its share of tax increment to the Authority to allocate less than the full amount of tax increment, establish a maximum amount of time in years, or limit the use of funds to specific purposes or programs.
- 24) Allows a taxing entity to repeal a resolution directing a portion of its tax increment to the Authority by giving the county auditor-controller 60 days' notice, except that the auditor-controller will continue to allocate to the Authority the portion of tax increment necessary to repay any debt issued by the Authority that has not been fully repaid.
- 25) Requires that if an Area overlaps with a former redevelopment agency the plan must specify that any tax increment collected is subject to and subordinate to any preexisting enforceable obligations of the former redevelopment agency.
- 26) Requires an Authority to complete an annual independent audit.
- 27) Requires an Authority to post a draft of the audit on their website and mail it to the each of the taxing entities that are contributing tax increment to the area.
- 28) Requires the annual audit to include:

- a) A description of the projects undertaken in the fiscal year and a comparison of the progress expected on those projects compared to the actual progress;
 - b) A chart comparing the actual revenues and expenses including administrative costs of the Authority to the budgeted revenues and expenses;
 - c) Amount of tax increment revenues received;
 - d) Amount of revenues received and expended for low-and moderate-income housing;
 - e) Assessment of the level of completion of the projects in the plan; and
 - f) Amount of revenues expended to assist private businesses.
- 29) Provides that if an Authority does not complete an annual report then it cannot expend any tax increment funds it receives.
- 30) Requires an Authority to hold a protest proceeding at the public hearing to review an annual report, every 10 years to give property owners an opportunity to provide oral or written protests against an Authority.
- 31) Requires an Authority to hold an election of the property owners in the areas covered by the plan if a majority of the owners protest, and not initiate any new projects until the election is held.
- 32) Provides that a majority protest exists if protests have been filed representing 50% of the assessed value of the area.
- 33) Requires the election to be held 90 days after the public hearing and permits it to be held by mail-in ballot.
- 34) Prevents an Authority from taking any further action to implement a plan if a majority of the property owners, weighted proportional to the assessed value of their property vote against the Authority.
- 35) Allows the Authority to continue to appropriate and expend funds for contractual indebtedness and complete projects for which expenditures of any kind have been made prior to the effective date of the election.

EXISTING LAW

- 1) Dissolves redevelopment agencies as of February 1, 2012 (Health and Safety Code Section 34170).
- 2) Establishes the Community Redevelopment Law (CRL), which governs the authority to establish a redevelopment agency and the authority for a redevelopment agency to function as an agency and to adopt and implement a redevelopment plan (Health and Safety Code Section 33000 *et seq.*).

FISCAL EFFECT: Unknown

COMMENTS:

Background: In 2011, the Legislature approved and the Governor signed two measures, ABX1 26 and ABX1 27 that together dissolved redevelopment agencies as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA), League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all redevelopment agencies were required to dissolve as of February 1, 2012.

Over the last sixty years, redevelopment agencies used tax increment to finance affordable housing, community development, and economic development projects. The dissolution of redevelopment agencies has created a void and an effort to create new tools that would support community and economic development activities.

This bill would allow local government entities, excluding schools, to form a Community Revitalization and Investment (Authority) to collect tax increment and issue debt. The Authority could use its powers to invest in disadvantaged communities with a high crime rate, high unemployment, and deteriorated and inadequate infrastructure, commercial, and residential buildings. Three of these four conditions would constitute blight allowing Authorities to use the powers of former redevelopment agencies. The area where the Authority could invest would also have to have an annual median household income that is less than 80% of the statewide annual median income. This is different from redevelopment agencies that were required to conduct a study and make a finding that blight existed in a project area before they could use their extraordinary powers to eradicate blight. Like redevelopment, this bill would allow Authorities to freeze the property taxes at the time the plan for revitalizing the area is approved. The Authority will collect all the tax increment or the increase in property taxes that are generated after that point and use it on specified activities. Unlike redevelopment agencies, this bill would require the taxing entities in the area including the county, city, special districts, or a military base to agree to divert tax increment to the Authority. Local government entities that initially participate can opt out by giving the auditor-controller sixty days' notice; however, the auditor controller will continue to collect the local government entities portions of tax increment until any debts issued up until then have been repaid.

Purpose of this bill: According to the author, "redevelopment was a multi-purpose tool that focused over \$6 billion per year toward repairing and redeveloping urban cores, and building affordable housing, especially those areas most economically and physically disadvantaged. Since the dissolution of redevelopment agencies, communities across California are seeking an economic development tool to use. Multiple legislative measures were introduced in 2012 after the dissolution of redevelopment agencies in an effort to provide local governments options for sustainable community economic development. Four measures were approved by the Legislature. However, all four were vetoed by Governor Brown at the end of legislative session. While the dissolution of former redevelopment agencies continues, the pervasive question is, what economic development tool can local governments use? This proposal provides a viable option targeting the state's disadvantaged poorer areas and neighborhoods."

Affordable housing provisions: Redevelopment agencies were required to set aside 20% of tax increment generated in a project area to increase, improve, or rehabilitate affordable housing for low, very-low, and moderate income families and individuals. In previous years, redevelopment generated up to \$1 billion for affordable housing in the state. AB 1080 would require an Authority to reserve 20% of the tax increment generated from a project area for affordable housing. The committee may wish to consider if this percentage should be increased to 25%? Although these new entities will not be capturing the schools share of tax increment, affordable housing is an important tool to assist in the revitalization of disadvantaged communities.

The bill would also allow an Authority to transfer the funds collected for affordable housing to a nonprofit corporation, housing authority within the territorial jurisdiction that created the authority, or the successor agency to a former redevelopment agency. An Authority would have to make a finding that transferring the funds and combining them with other funding for housing would reduce administrative costs or expedite the construction of affordable housing. The committee may also wish to clarify that the funds generated in a project area must stay in the project area.

The committee may also wish to consider if it is appropriate to transfer public dollars to private nonprofit entity. Although there are many good nonprofit housing developers they are not held to the same public meeting and disclosure requirements as governmental entities. Additionally, the committee may wish to clarify that if funds for affordable housing are transferred to a housing authority or successor agency of the former redevelopment agency that that entity must comply with all of the requirements in the Community Redevelopment Law (CRL) to spend those funds.

This bill also requires the Authority to comply with several provisions of the CRL for how to spend the housing set-a-side but leaves out some key provisions. The committee may wish to clarify that an Authority is required to comply with all of the housing provisions of the CRL. Those existing provisions not covered include, but are not limited to, restrictions on planning and administrative expenditures, imposing long-term covenants, targeting the housing funds toward income levels, and rules about displacement and relocation assistance.

Clarifying the exemption of schools: The author's intent is to exclude the school's portion of property taxes from an Authority. The bill is somewhat unclear on this point and the committee may wish to further clarify by stating, in the affirmative, that schools are not permitted to join an Authority.

Related legislation: SB 1 (Steinberg) would have allowed local governments to establish a Sustainable Communities Investment Authority after July 1, 2012, to finance specified activities within a sustainable communities investment area using tax increment financing. This bill was vetoed by the Governor.

Committee amendments:

On page 6, line 34, delete "to a private nonprofit corporation,"

On page 10, line 35, delete "(e)" and insert "(f)"

On page 11, line 4, delete "(e)" and insert "(f)"

Include language that increases the percentage of funding for housing to 25%

Double referred: If AB 1080 passes out of this committee, the bill will be referred to the Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

California Building Industry Association
California Rural Legal Assistance Foundation
California Special Districts Association
City of Oceanside
City of Salinas
League of California Cities

Opposition

None on file.

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