

AMENDED IN SENATE MARCH 21, 2019

**SENATE BILL**

**No. 315**

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**Introduced by Senator Hertzberg**

February 15, 2019

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An act to amend Section 12097.5 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 315, as amended, Hertzberg. Governor's Office of Business and Economic Development: opportunity zones: promise zones.

Existing law authorizes the Governor's Office of Business and Economic Development to develop content on its internet website or through other mediums to be used for public dissemination, through outreach activities, in order to provide information and resources to inform the general public about place-based and other geographically targeted economic development programs, including California Promise Zones and California Opportunity Zones. Existing law requires the Governor's Office of Business and Economic Development to convene, at least annually, representatives from various programs and agencies across the state and from various federal programs and agencies for the purpose of discussing how California can leverage Promise Zones and Opportunity Zones to meet state and local community and economic development needs.

This bill would require the Governor's Office of Business and Economic Development, in cooperation with the Office of Planning and Research, to track specified information regarding California Opportunity Zone and California Promise Zone investments and to post that information on the Governor's Office of Business and Economic Development's internet website. *The bill would require Opportunity*

*Fund managers, among other things, to track and provide specified information in this regard. The bill would require a taxpayer who seeks a deferral or reduction of any tax liability for capital gains under the Personal Income Tax Law or the Corporation Tax Law as a result of investments made in a California Opportunity Zone or a California Promise Zone pursuant to the Budget Act for the 2019—20 fiscal year, or any bill related to that Budget Act, to comply with these requirements in order to receive that deferral or reduction.*

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

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

1     SECTION 1. *The Legislature finds and declares the following:*  
2     (a) *California established 879 Opportunity Zones in 2017*  
3 *pursuant to the Investing in Opportunity Act (26 U.S.C. Secs.*  
4 *1400Z-1 and 1400Z-2), enacted as part of the federal Tax Cuts*  
5 *and Jobs Act of 2017 (PL 115-97), which provides taxpayers with*  
6 *favorable capital gains tax treatment for investment in those zones.*  
7 *The aim is to provide private capital to help improve conditions*  
8 *in disadvantaged communities.*  
9     (b) *The tax benefits associated with the Opportunity Zones policy*  
10 *will allow investors to leverage more capital for projects in these*  
11 *communities while also reducing their capital gains tax bill.*  
12 *Investment in Opportunity Zones has the potential to reduce*  
13 *economic inequality and barriers to employment facing low-income*  
14 *and underinvested communities.*  
15     (c) *The U.S. Impact Investing Alliance, the Beeck Center for*  
16 *Social Impact and Innovation at Georgetown University, and the*  
17 *Federal Reserve Bank of New York last year developed a set of*  
18 *Guiding Principles for Opportunity Zones to encourage*  
19 *Opportunity Zone investments that produce positive economic and*  
20 *social outcomes and minimize unintended consequences, such as*  
21 *gentrification and displacement of zone residents.*  
22     (d) *The Guiding Principles for Opportunity Zones are as*  
23 *follows:*  
24     (1) *Community engagement: Opportunity Funds should integrate*  
25 *the needs of local communities into the formation and*  
26 *implementation of the funds, reaching low-income and*  
27 *underinvested communities with attention to diversity.*

1 (2) *Equity: Opportunity Fund investments should seek to*  
2 *generate equitable community benefits, leverage other incentives,*  
3 *and aim for responsible exits.*

4 (3) *Transparency: Opportunity Funds should be transparent*  
5 *and accountable, with processes and practices that remain fair*  
6 *and clear.*

7 (4) *Measurement: Opportunity Fund investors should monitor,*  
8 *measure, and track progress against specific impact objectives,*  
9 *identifying key outcome measures and allowing for continuous*  
10 *improvement.*

11 (5) *Outcomes: Opportunity Fund metrics should track real*  
12 *change, with an understanding that both quantitative and*  
13 *qualitative measures are valuable indicators of progress.*

14 (e) *The Guiding Principles for Opportunity Zones, implemented*  
15 *through a detailed reporting framework, will help ensure that*  
16 *Opportunity Zone investment results in inclusive growth and shared*  
17 *prosperity.*

18 **SECTION 1.**

19 **SEC. 2.** Section 12097.5 of the Government Code is amended  
20 to read:

21 12097.5. (a) (1) The Governor’s Office of Business and  
22 Economic Development is hereby authorized to develop content  
23 on its internet website or through other mediums to be used for  
24 public dissemination, through outreach activities, in order to  
25 provide information and resources to inform the general public  
26 about place-based and other geographically targeted economic  
27 development programs, including, but not limited to, federal  
28 Promise Zones within California that are designated by the United  
29 States Department of Housing and Urban Development; and  
30 Opportunity Zones designated by the United States Treasury,  
31 pursuant to Sections 1400Z-1 and 1400Z-2 of the Internal Revenue  
32 Code.

33 (2) The information and resources shall include, but not be  
34 limited to, how the local jurisdictions or census tracts were created,  
35 where locals and investors may get additional information, and  
36 updates regarding federal programs as that information becomes  
37 available.

38 (b) The Governor’s Office of Business and Economic  
39 Development shall convene, at least annually, representatives from  
40 various programs and agencies across the state and from various

1 federal programs and agencies for the purpose of discussing how  
2 California can leverage Promise Zones and Opportunity Zones to  
3 meet state and local community and economic development needs.  
4 The convention topics shall include, but not be limited to,  
5 discussions on enhanced engagement opportunities and targeted  
6 outreach to assist designated areas in their efforts to access state  
7 resources and services.

8 (c) (1) The Governor's Office of Business and Economic  
9 Development shall, in cooperation with the Office of Planning and  
10 Research, track the following information regarding California  
11 Opportunity Zone and California Promise Zone investments:

12 ~~(A) Qualified spending.~~

13 ~~(B) Economic gains.~~

14 ~~(C) Employment numbers.~~

15 ~~(D) Job training.~~

16 (A) *Investment intention and community engagement.*  
17 *Opportunity Fund managers shall report information that will*  
18 *encourage effective market formation and enable community*  
19 *engagement before and during investments, including the*  
20 *following:*

21 (i) *The following prospective information:*

22 (I) *The geographic focus, including, but not limited to, state,*  
23 *ZIP Code, and urban or rural focus.*

24 (II) *The intended investment focus, such as housing, small*  
25 *business, or growth business.*

26 (III) *The target investment size.*

27 (IV) *A mission statement or impact objective.*

28 (ii) *The following base fund demographics:*

29 (I) *The size of the fund, including total assets and eligible*  
30 *deferred gain assets.*

31 (II) *The types of investors, such as corporate, partnership, or*  
32 *individual filers.*

33 (III) *The taxpaying residence of investors, aggregated by state*  
34 *and portion of fund assets.*

35 (IV) *The structure of the fund as a single or multiasset fund.*

36 (V) *The population demographics of the Opportunity Zone,*  
37 *including racial and gender composition.*

38 (iii) *Community engagement information, as follows:*

39 (I) *The following community support indicators:*

40 (ia) *A community engagement narrative.*

- 1     *(ib) A community needs assessment.*
- 2     *(ic) Information on nongovernmental organization partnerships.*
- 3     *(id) Public notice of development.*
- 4     *(II) Information on engagement with regional economic*
- 5     *development strategies.*
- 6     *(B) Impact measurement and reporting. Opportunity Fund*
- 7     *managers shall track and report basic transaction-level data, a*
- 8     *core set of community impact metrics that are widely applicable*
- 9     *to Opportunity Funds, and additional metrics applicable to the*
- 10    *specific investment thesis and impact vertical of the fund.*
- 11    *Information reported pursuant to this subparagraph shall be in a*
- 12    *manner that facilitates regional and national aggregation of data*
- 13    *and shall include the following:*
- 14    *(i) The following transaction data reporting:*
- 15    *(I) The size of the investment.*
- 16    *(II) The location of the investment, by census tract or street*
- 17    *address.*
- 18    *(III) The NAICS Code of any operating business.*
- 19    *(IV) The type of qualifying property.*
- 20    *(ii) The following core community impact information:*
- 21    *(I) Information on jobs, including all of the following:*
- 22    *(ia) The number of permanent, seasonal, and construction*
- 23    *employees.*
- 24    *(ib) The net number of new jobs created.*
- 25    *(ic) The number of employees from low- and moderate-income*
- 26    *communities.*
- 27    *(id) Information on the employment of disadvantaged groups,*
- 28    *such as returning citizens and veterans.*
- 29    *(II) The following entrepreneurship information, if applicable:*
- 30    *(ia) The NAICS Code of commercial tenants.*
- 31    *(ib) The percentage of women-owned and minority-owned*
- 32    *enterprises.*
- 33    *(ic) The percentage of first-time business owners.*
- 34    *(III) The following real estate information, if applicable:*
- 35    *(ia) Information on affordable housing, including the net new*
- 36    *number of affordable housing units developed, the number of net*
- 37    *additional individuals housed based on that development, the*
- 38    *percentage of units in the development that are affordable, and*
- 39    *the number of affordable units renovated.*

1     *(ib) The square footage of developed real estate, including*  
 2     *commercial, residential, and infrastructure improvements.*  
 3     *(C) Investment thesis reporting. Opportunity Fund managers*  
 4     *shall select, measure, and report on metrics specific to the*  
 5     *investment thesis and impact vertical of the fund. If possible, the*  
 6     *information reported pursuant to this subparagraph shall be*  
 7     *reported in alignment with accepted industry standards and*  
 8     *methodologies.*  
 9     *(D) Lasting community impact. Opportunity Fund managers*  
 10    *shall seek opportunities to create durable community benefits by*  
 11    *prioritizing responsible investment exit strategies where feasible.*  
 12    *(E) Responsible exits. Opportunity Fund managers shall report*  
 13    *on existing considerations at the outset of investment and commit*  
 14    *to preserve community wealth. An Opportunity Fund manager*  
 15    *may provide a side letter, term sheet, or other nonbinding exit plan*  
 16    *that may, but is not required to, include the following*  
 17    *considerations:*  
 18    *(i) A stakeholder right of first refusal.*  
 19    *(ii) Employee stock ownership plans.*  
 20    *(iii) Continuity of management.*  
 21    *(F) Transparent outcomes reporting. Opportunity Fund*  
 22    *managers shall commit to work forthrightly and transparently with*  
 23    *independent evaluators and researchers to provide the information*  
 24    *required by this subparagraph.*  
 25    ~~(E)~~  
 26    *(G) Any other economic indicator the Governor’s Office of*  
 27    *Business and Economic Development and the Office of Planning*  
 28    *Research deem appropriate.*  
 29    (2) The Governor’s Office of Business and Economic  
 30    Development shall post information gathered pursuant to this  
 31    subdivision on its internet website.  
 32    (3) A taxpayer who seeks a deferral or reduction of any tax  
 33    liability for capital gains under the Personal Income Tax Law  
 34    (Part 10 (commencing with Section 17001) of Division 2 of the  
 35    Revenue and Taxation Code) or the Corporation Tax Law (Part  
 36    11 (commencing with Section 23001) of Division 2 of the Revenue  
 37    and Taxation Code) as a result of investments made in a California  
 38    Opportunity Zone or a California Promise Zone pursuant to the  
 39    Budget Act for the 2019–20 fiscal year, or any bill related to that

1 *Budget Act, shall comply with the requirements of this subdivision*  
2 *in order to receive that deferral or reduction.*

3 (d) As used in this section:

4 (1) “California Opportunity Zone” means a census tract in this  
5 state that has been designated by the United States Treasury as an  
6 Opportunity Zone, pursuant to Sections 1400Z-1 and 1400Z-2 of  
7 the Internal Revenue Code.

8 (2) “California Promise Zone” means a community in this state  
9 that has been designated by the United States Department of  
10 Housing and Urban Development as a Promise Zone.