

AMENDED IN SENATE APRIL 9, 2020

SENATE BILL

No. 1435

Introduced by Senator Durazo

February 21, 2020

An act to *amend Section 65940 of*, to amend and renumber Section 12097.5 of, to add Section 12097.5 to, and to add and repeal Sections 12097.7 and 12097.8 of, the Government Code, relating to opportunity zones.

LEGISLATIVE COUNSEL'S DIGEST

SB 1435, as amended, Durazo. Opportunity zone funds: reporting.

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.

Existing law, the Planning and Zoning Law, among other things, requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that relates to its planning. That law authorizes the legislative body of any county

or city, pursuant to specified procedures, to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes. That law also requires public agencies to compile lists that specify in detail the information that will be required from any applicant for a development project.

This bill, until January 1, 2026, 2025, 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 investments and to post some of that information on the Governor's Office of Business and Economic Development's internet website. The bill, to assist the Governor's Office of Business and Economic Development in this regard, would require, for purposes of those provisions, would require, until January 1, 2026, the manager of an opportunity zone fund to submit 2025, public agencies that are required to compile the development project lists described above to include specified information about the all development projects funded by an opportunity zone fund and any real estate investments in those lists, and to submit that information to the Governor's Office of Business and Economic Development, as provided. The bill would authorize public agencies to charge a reasonable regulatory fee, not to exceed the costs of complying with these provisions, as part of the application fee charged for the development permit.

This bill would require, on or before January 1, 2022, the Legislative Analyst's Office, in collaboration with the Office of Planning and Research, in consultation with the Department of Housing and Community Development, Development and the Governor's Office of Business and Economic Development, among others, to publicly issue a report to the Legislature that summarizes and explicates data on California opportunity zones and answers specified questions relating to opportunity zones.

This bill would state the intent of the Legislature to enact legislation that would accomplish specified acts, including imposing a registration fee on the development of projects within a California opportunity zone, that would be paid by the managers of qualified opportunity zone funds funding the project, calculated by the size and type of development project.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Housing is critical to the safety and wellness of Californians
4 and the provision of secure, quality housing and a safe living
5 environment for every Californian is of vital importance to the
6 welfare of our entire state.

7 (b) ~~California is~~ *was* experiencing a major affordable housing
8 and homelessness crisis. ~~According to the California Department~~
9 ~~of Housing and Community Development, on average, rent has~~
10 ~~increased by 25 percent across California since 2000, yet renter~~
11 ~~wages have dropped by 6 percent.~~ *crisis before the COVID-19*
12 *public health crisis.*

13 (c) *According to an analysis of the United States Census data*
14 *by the California Housing Partnership Corporation, from 2000*
15 *to 2018, the median annual cost to rent an apartment or home in*
16 *California increased 40 percent while incomes have gone up only*
17 *8 percent, after adjusting for inflation.*

18 (e)

19 (d) High housing costs, coupled with high costs of other basic
20 necessities, leaves nearly ~~one~~ 1 in 5 Californians in poverty. Over
21 one-half of renters are rent burdened, paying more than 30 percent
22 of income on rent, and 8 in 10 renters are low-income renters.
23 Women, low-income renters, and people of color experience higher
24 rates of rent burden and severe rent burden and therefore are at
25 greater risk of displacement and gentrification. California also has

1 the highest percentage, at 70 percent, of unsheltered homeless
2 individuals in the country.

3 *(e) The COVID-19 public health crisis has illustrated the*
4 *importance of keeping people housed to curb the spread of*
5 *diseases. During a public health crisis, Californians will only be*
6 *as safe as the most uninsured and housing insecure Californian.*

7 *(f) Housing is one of the most important social determinants of*
8 *health. The lack of affordable housing affects families' ability to*
9 *meet other essential expenses, placing many under tremendous*
10 *financial strain. High housing-related costs place a particular*
11 *economic burden on low-income families, forcing trade-offs*
12 *between food, heating, and other basic needs. One study found*
13 *that low-income people with difficulty paying rent, mortgage, or*
14 *utility bills were less likely to have a usual source of medical care*
15 *and more likely to postpone treatment and use the emergency room*
16 *for treatment. Another study showed that children in areas with*
17 *higher rates of unaffordable housing tended to have worse health,*
18 *more behavioral problems, and lower school performance.*

19 ~~(d)~~

20 *(g) The Federal Opportunity Zones Program enacted in 2017*
21 *as part of the federal Tax Cuts and Jobs Act incentivizes*
22 *development in 879 low-income census tracts throughout*
23 *California. These make up 25 percent of the state's low-income*
24 *communities and are home to more than 3 million Californians.*

25 *(h) Major job losses in low-wage restaurant and hospitality*
26 *sectors during the COVID-19 public health crisis could create an*
27 *even greater need for affordable housing. It is important that any*
28 *housing that is currently affordable to low-income communities*
29 *remains affordable.*

30 *(i) Opportunity zones incentivize massive investments in*
31 *low-income communities. These investments could result in rent*
32 *increases and loss of housing that is affordable to existing*
33 *communities, further exacerbating California's affordable housing*
34 *crisis.*

35 *(j) The low-income communities that make up opportunity zones*
36 *were at great risk of displacement before the COVID-19 public*
37 *health crisis. Data collection that can lead to solutions that will*
38 *protect these communities after the COVID-19 public health crisis*
39 *is crucial.*

40 ~~(e)~~

1 (k) There is currently no *federal or* state-level data reporting
2 mechanism to track the type, scale, geographies, or effectiveness
3 of existing or new opportunity zone investments.

4 ~~(f)~~

5 (l) The Legislature acknowledges the value of investment in
6 communities that benefit its existing residents, particularly amidst
7 the housing affordability crisis and the importance of ensuring said
8 investments are tracked and analyzed in order to prevent further
9 displacement.

10 ~~(g)~~

11 (m) Development in opportunity zones must be intentional and
12 provide the existing residents with the opportunity to remain and
13 thrive in their neighborhoods.

14 SEC. 2. Section 12097.5 is added to the Government Code, to
15 read:

16 12097.5. For purposes of this article, all of the following
17 definitions shall apply:

18 (a) “Affordable” means housing for persons and families of
19 extremely low, very low, and low incomes in accordance with the
20 following:

21 (1) Housing units targeted for persons and families of extremely
22 low income shall be made available at a monthly housing cost that
23 does not exceed 30 percent of the area median income with
24 adjustments for household size made in accordance with the
25 adjustment factors on which the moderate-income eligibility limits
26 are based.

27 (2) Housing units targeted for persons and families of very low
28 income shall be made available at a monthly housing cost that
29 does not exceed 31 to 50 percent, inclusive, of the area median
30 income with adjustments for household size made in accordance
31 with the adjustment factors on which the moderate-income
32 eligibility limits are based.

33 (3) Housing units targeted for persons and families of low
34 income shall be made available at a monthly housing cost that
35 does not exceed 51 to 80 percent, inclusive, of the area median
36 income with adjustments for household size made in accordance
37 with the adjustment factors on which the moderate-income
38 eligibility limits are based.

39 (b) “Area median income” means area median income as
40 periodically established by the Department of Housing and

1 *Community Development pursuant to Section 50093 of the Health*
2 *and Safety Code.*

3 ~~(a)~~

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

8 ~~(b)~~

9 (d) “California promise zone” means a community in this state
10 that has been designated by the United States Department of
11 Housing and Urban Development as a promise zone.

12 ~~(e)~~

13 (e) “Governor’s Office of Business and Economic Development”
14 means the Governor’s Office of Business and Economic
15 Development established pursuant to Section 12096.2.

16 SEC. 3. Section 12097.5 of the Government Code is amended
17 and renumbered to read:

18 12097.6 (a) (1) The Governor’s Office of Business and
19 Economic Development is hereby authorized to develop content
20 on its internet website or through other mediums to be used for
21 public dissemination, through outreach activities, in order to
22 provide information and resources to inform the general public
23 about place-based and other geographically targeted economic
24 development programs, including, but not limited to, federal
25 promise zones within California that are designated by the United
26 States Department of Housing and Urban Development; and
27 opportunity zones designated by the United States Treasury,
28 pursuant to Sections 1400Z-1 and 1400Z-2 of the Internal Revenue
29 Code.

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

35 (b) The Governor’s Office of Business and Economic
36 Development shall convene, at least annually, representatives from
37 various programs and agencies across the state and from various
38 federal programs and agencies for the purpose of discussing how
39 California can leverage promise zones and opportunity zones to
40 meet state and local community and economic development needs.

1 The convention topics shall include, but not be limited to,
2 discussions on enhanced engagement opportunities and targeted
3 outreach to assist designated areas in their efforts to access state
4 resources and services.

5 SEC. 4. Section 12097.7 is added to the Government Code, to
6 read:

7 12097.7. (a) For purposes of this section, “opportunity zone
8 fund” means a qualified opportunity zone fund, as defined in
9 Section 1400Z-2 of the Internal Revenue Code, that has
10 investments in qualified opportunity zone property, as defined in
11 the Section 1400Z-2 of the Internal Revenue Code, located in a
12 California opportunity zone.

13 (b) The Governor’s Office of Business and Economic
14 Development shall, in cooperation with the Office of Planning and
15 Research, track information regarding California opportunity zone
16 investments.

17 (c) (1) ~~To assist the Governor’s Office of Business and~~
18 ~~Economic Development for purposes of this section, the manager~~
19 ~~of an opportunity zone fund shall electronically submit, within 60~~
20 ~~days of the operative date of this section or within 60 days of the~~
21 ~~incorporation or formation of a fund, whichever is later, For the~~
22 ~~purposes of this section, public agencies subject to Section 65940~~
23 ~~shall electronically submit the following information about the~~
24 ~~fund all development projects funded by an opportunity zone fund~~
25 ~~to the Governor’s Office of Business and Economic Development:~~

26 (A) ~~The name.~~ *The name of the fund or funds.*

27 (B) The federal and state employer identification number, if
28 applicable.

29 (C) The type of entity.

30 (D) If the fund is a corporation, the date incorporated and the
31 state of incorporation.

32 (E) If the fund is a partnership, the date of formation and the
33 state of formation.

34 (F) The structure of the fund as a single or multiasset fund.

35 (G) The size of the fund, including total assets and eligible
36 deferred gain assets.

37 (H) The target investment size.

38 (I) The responsible party or point of contact.

39 (J) (i) A copy of the offering document, if applicable.

- 1 (ii) If the offering document is not submitted or does not contain
2 the information described in this clause, the ~~manager~~ *public agency*
3 shall submit the following information about the ~~fund~~ *development*
4 *project* to the Governor's Office of Business and Economic
5 Development:
- 6 (I) The mission statement or impact objective.
 - 7 (II) The investment focus, such as housing, green, office, or
8 operating business.
 - 9 (III) The geographic focus, including, but not limited to, state,
10 ZIP Code, and urban or rural focus.
 - 11 (IV) A sustainability narrative.
 - 12 (V) A community engagement narrative.
 - 13 (VI) An antidemolition narrative.
 - 14 (VII) A tenant protections narrative.
- 15 ~~(2) Within 30 days of receipt of the information received~~
16 ~~pursuant to paragraph (1), the Governor's Office of Business and~~
17 ~~Economic Development shall report the information to the Office~~
18 ~~of Planning and Research and the Department of Housing and~~
19 ~~Community Development.~~
- 20 ~~(d) (1) On or before June 30, 2021, and on or before June 30~~
21 ~~each year thereafter, the manager of an opportunity zone fund that~~
22 ~~has made real estate investments shall electronically submit the~~
23 ~~following information about the fund about those real estate~~
24 ~~investments to the Governor's Office of Business and Economic~~
25 ~~Development:~~
- 26 ~~(A)~~
 - 27 (K) The types of properties, such as single-family, multifamily,
28 or commercial properties.
 - 29 ~~(B)~~
 - 30 (L) The square footage of developed real estate.
 - 31 ~~(C)~~
 - 32 (M) The number of housing units developed and the percentage
33 of units in the development that are affordable.
 - 34 ~~(D)~~
 - 35 (N) The net new number of affordable housing units developed.
 - 36 ~~(E)~~
 - 37 (O) The number of affordable housing units demolished or
38 vacated.
 - 39 ~~(F)~~

1 (P) Any other displacement indicator the Governor’s Office of
2 Business and Economic Development and the Office of Planning
3 Research deem appropriate.

4 ~~(2) The manager shall include in the first report submitted~~
5 ~~pursuant to paragraph (1) information that dates back to the~~
6 ~~incorporation or formation of the fund. The manager shall include~~
7 ~~in each report submitted after the first report information for the~~
8 ~~relevant reporting period.~~

9 (2) *Public agencies subject to paragraph (1) may charge*
10 *applicants a reasonable regulatory fee, not to exceed the costs to*
11 *the state of complying with this section, as part of the application*
12 *fee charged for the development permit under Section 65941.5.*

13 (3) *Within 30 days of receipt of the information received*
14 *pursuant to paragraph (1), the Governor’s Office of Business and*
15 *Economic Development shall report the information to the Office*
16 *of Planning and Research and the Department of Housing and*
17 *Community Development.*

18 ~~(3)~~

19 (4) Within one year of receipt of the information required by
20 this subdivision, the Governor’s Office of Business and Economic
21 Development shall make the information publicly available on its
22 internet website.

23 ~~(e)~~

24 (d) This section shall remain operative only until January 1,
25 2026, 2025, and is repealed as of that date.

26 SEC. 5. Section 12097.8 is added to the Government Code, to
27 read:

28 12097.8. (a) On or before January 1, 2022, ~~the Legislative~~
29 ~~Analyst’s Office, in collaboration with~~ the Office of Planning and
30 Research, *in collaboration with* the Department of Housing and
31 Community Development, and the Governor’s Office of Business
32 and Economic Development, shall ~~publicly~~ issue a report *to the*
33 *Legislature* that summarizes and explicates data on California
34 opportunity zones and ~~answers~~ *addresses, at a minimum,* all of the
35 following questions:

36 (1) Are California opportunity zones contributing to
37 displacement in communities? If so, what are the disproportionate
38 impacts on low-income communities and communities of color?

39 (2) Is overall growth in California opportunity zones similar to,
40 less than, or more than non-opportunity zone census tracts?

1 (3) Is small business growth in California opportunity zones
2 similar to, less than, or more than non-opportunity zone census
3 tracts?

4 (4) Is minority business growth in California opportunity zones
5 similar to, less than, or more than non-opportunity zone census
6 tracts?

7 (5) Is the level of real estate activities in construction and
8 transactions in the California opportunity zones sites similar to,
9 less than, or more than non-opportunity zone census tracts?

10 (6) Has the maintenance and production of affordable and
11 rent-controlled housing decreased, increased, or remained the same
12 in California opportunity zones compared to non-opportunity zone
13 census tracts?

14 (7) Has the number of jobs increased, decreased, or remained
15 the same in the California opportunity zones compared to
16 non-opportunity zone census tracts?

17 (8) *What are the changes in “in vs. out movers,” such as race,*
18 *ethnicity, age, income, employment, educational attainment, and*
19 *marital status, in opportunity zones compared to non-opportunity*
20 *zone census tracts?*

21 (9) *How have sales and property values changed in opportunity*
22 *zones compared to non-opportunity zone census tracts?*

23 ~~(8)~~

24 (10) Has the median household income increased, decreased,
25 or remained the same in California opportunity zones compared
26 to non-opportunity zone census tracts?

27 ~~(9) Have the demographic characteristics shifted more, less, or~~
28 ~~remained the same in California opportunity zones compared to~~
29 ~~non-opportunity zone census tracts?~~

30 (11) *What have been the changes in “in vs. out” movers, such*
31 *as race, ethnicity, age, income, employment, educational*
32 *attainment, and marital status? Have the demographic*
33 *characteristics shifted more, less, or remained the same in*
34 *opportunity zones compared to non-opportunity zone census tracts?*

35 ~~(10)~~

36 (12) Has the median gross rent increased, decreased, or remained
37 the same in California opportunity zones compared to
38 non-opportunity zone census tracts?

39 (13) *What have been the changes in the number of people living*
40 *in crowded housing conditions, time-traveled, and distance to work*

1 *in opportunity zones compared to non-opportunity zone census*
2 *tracts?*

3 *(b) The Office of Planning and Research shall, when completing*
4 *the report, consult with the University of California Urban*
5 *Displacement Project and interested stakeholders.*

6 *(c) A report required to be submitted pursuant to this section*
7 *shall be submitted in compliance with Section 9795.*

8 ~~(b)~~

9 *(d) This section shall remain operative only until January 1,*
10 *2026, 2025, and is repealed as of that date.*

11 ~~SEC. 6. It is the intent of the Legislature to enact legislation~~
12 ~~that would accomplish all of the following:~~

13 ~~(a) Require applicants for development projects proposed within~~
14 ~~a California opportunity zone, as defined in Section 12097.5 of~~
15 ~~the Government Code, to include information as to whether the~~
16 ~~project will use funds from a qualified opportunity zone fund, as~~
17 ~~defined in Section 1400Z-2 of the Internal Revenue Code, and in~~
18 ~~that case, to require the submission of specified information with~~
19 ~~the application for the development project.~~

20 ~~(b) Impose a registration fee on the development of projects~~
21 ~~within a California opportunity zone that would be paid by the~~
22 ~~managers of qualified opportunity zone funds funding the project,~~
23 ~~calculated by the size and type of development project, to recover~~
24 ~~the additional costs of reviewing the applications described in~~
25 ~~subdivision (a) and the costs to the Governor's Office of Business~~
26 ~~and Economic Development to administer Section 12097.7 of the~~
27 ~~Government Code, as proposed to be added by this act, and for~~
28 ~~allocation to the Judicial Council to fund legal assistance for~~
29 ~~undocumented tenants.~~

30 ~~(c) Waive or reduce the registration fee for any development~~
31 ~~project that contains housing units that are affordable, as~~
32 ~~determined by a percentage of average median income, with respect~~
33 ~~to those portions of development project that are the affordable~~
34 ~~housing units.~~

35 *SEC. 6. Section 65940 of the Government Code, as amended*
36 *by Section 6 of Chapter 654 of the Statutes of 2019, is amended*
37 *to read:*

38 *65940. (a) (1) Each public agency shall compile one or more*
39 *lists that shall specify in detail the information that will be required*
40 *from any applicant for a development project. Each public agency*

1 shall revise the list of information required from an applicant to
2 include a certification of compliance with Section 65962.5, and
3 the statement of application required by Section 65943. Copies of
4 the information, including the statement of application required
5 by Section 65943, shall be made available to all applicants for
6 development projects and to any person who requests the
7 information.

8 (2) An affected city or affected county, as defined in Section
9 66300, shall include the information necessary to determine
10 compliance with the requirements of subdivision (d) of Section
11 66300 in the list compiled pursuant to paragraph (1).

12 (b) The list of information required from any applicant shall
13 include, where applicable, identification of whether the proposed
14 project is located within 1,000 feet of a military installation,
15 beneath a low-level flight path or within special use airspace as
16 defined in Section 21098 of the Public Resources Code, and within
17 an urbanized area as defined in Section 65944.

18 (c) (1) A public agency that is not beneath a low-level flight
19 path or not within special use airspace and does not contain a
20 military installation is not required to change its list of information
21 required from applicants to comply with subdivision (b).

22 (2) A public agency that is entirely urbanized, as defined in
23 subdivision (e) of Section 65944, with the exception of a
24 jurisdiction that contains a military installation, is not required to
25 change its list of information required from applicants to comply
26 with subdivision (b).

27 (d) (1) *The list of information required from any applicant shall*
28 *include, where applicable and for applications for developments*
29 *within qualified opportunity zones, identification of whether*
30 *development and operation of the proposed project will use funds*
31 *from a qualified opportunity zone fund, and shall require projects*
32 *using funds from a qualified opportunity zone fund to submit*
33 *information required under Article 4.6 (commencing with Section*
34 *12097.5) of Chapter 1.6 of Part 2 of Division 3 of Title 2.*

35 (2) *A public agency that does not have any census tracts*
36 *designated as qualified opportunity zones that lie within the*
37 *boundaries of the affected city or affected county shall not be*
38 *required to comply with paragraph (1).*

39 (d)

1 (e) This section shall remain in effect only until January 1, 2025,
2 and as of that date is repealed.

3 *SEC. 7. The Legislature finds and declares that Sections 4 and*
4 *6 of this act, amending Section 65940 of, and adding Section*
5 *12097.7 to, the Government Code address a matter of statewide*
6 *concern rather than a municipal affair as that term is used in*
7 *Section 5 of Article XI of the California Constitution. Therefore,*
8 *Sections 4 and 6 of this act apply to all cities, including charter*
9 *cities.*

10 *SEC. 8. No reimbursement is required by this act pursuant to*
11 *Section 6 of Article XIII B of the California Constitution because*
12 *a local agency or school district has the authority to levy service*
13 *charges, fees, or assessments sufficient to pay for the program or*
14 *level of service mandated by this act, within the meaning of Section*
15 *17556 of the Government Code.*

O