

ATTACHMENT 1

AMENDED IN SENATE APRIL 11, 2019

AMENDED IN SENATE APRIL 1, 2019

SENATE BILL

No. 189

Introduced by Senator Monning

(Coauthors: Assembly Members Robert Rivas and Mark Stone)

January 30, 2019

An act to amend Sections 67652, 67655, 67660, and 67700 of, to add Section 67701 to, and to repeal Sections 67661, 67662, 67673, 67675.2, 67675.3, 67675.4, 67675.5, 67675.6, 67675.7, 67675.8, 67675.9, and 67690 of, the Government Code, and to add Section 33492.79 to the Health and Safety Code, relating to military base reuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 189, as amended, Monning. Fort Ord Reuse Authority: member agencies: land use and zoning: dissolution.

(1) Existing law, the Fort Ord Reuse Authority Act, establishes the Fort Ord Reuse Authority (the authority) to prepare, adopt, finance, and implement a plan for the use and development of the territory previously occupied by the Fort Ord military base in the County of Monterey. The act provides that the authority is governed by a board comprised of 13 members representing the County of Monterey and specified cities within the county, which the act designates as "member agencies."

This bill would reduce the size of the board from 13 members to 5 members and eliminate representation for certain cities. The bill would require the vote of a majority of the total membership of the board to pass or act upon any matter properly before the board.

(2) Existing law authorizes representatives of certain entities to serve as ex officio, nonvoting members of the board and authorizes the board to appoint or remove additional ex officio members at its pleasure.

Existing law authorizes the board to appoint advisory committees to provide it with options, critique, analysis, and other information as it finds useful.

After adoption of a reuse plan by the board, existing law requires each county or city with territory occupied by Fort Ord to submit its general plan or amended general plan that meets certain requirements, or subsequent amendments to a certified plan, to the board and requires the board, after a noticed public hearing, to certify or refuse to certify the portion of the general plan that applies the territory of Fort Ord, as provided. Existing law similarly provides for the submission and review by the board of the county's or city's zoning ordinances, zoning district maps, and, where necessary, other implementing actions applicable to the territory of Fort Ord. Existing law provides that development review authority, with certain exceptions, is exercised by the applicable county or city, but prohibits a local agency from permitting, approving, or otherwise allowing a development or other change of use within the area of Fort Ord that is not consistent with the reuse plan adopted by the board. Existing law authorizes the board to review actions of each member agency regarding planning, zoning, and the issuance or denial of building permits within the area of Fort Ord, subject to specified limitations.

Existing law provides specific procedures regarding the preparation of an environmental impact report on the Fort Ord Reuse Plan that apply in the event that an environmental impact statement on the closure and reuse of Fort Ord has been filed pursuant to the federal National Environmental Policy Act of 1969.

Existing law authorizes the board to receive contributions from member agencies represented on the board. Existing law requires each member agency and each public agency represented by an ex officio member to contribute specified amounts to the authority.

This bill would repeal all of these provisions.

(3) Under existing law, the Fort Ord Reuse Authority Act becomes inoperative when the board makes a specified determination regarding the development or reuse of the territory of Fort Ord or on June 30, 2020, whichever occurs first. Existing law repeals the act on January 1, 2021. Existing law requires the Monterey County Local Agency Formation Commission to provide for the orderly dissolution of the authority, as provided.

This bill would, instead, make the Fort Ord Reuse Authority Act inoperative on June 30, 2022, and repeal the act on January 1, 2023.

The bill would require the authority to negotiate and secure successor agencies for all obligations under the transition plan no later than June 30, 2022. The bill would require the Monterey County Local Agency Formation Commission to provide for the orderly dissolution of the authority once an agreement with a successor agency has been finalized. The bill would require the transfer of specified revenues of the authority to the County of Monterey for disbursement to each underlying land use jurisdiction on a pro rata basis. The bill would specify that any financial obligation of the authority to which the County of Monterey succeeds as a result of the disbursement of remaining revenues or the retirement of debt does not constitute a debt or liability of the county, or any other member agency.

This bill, on and after July 1, 2020, would authorize the authority to take specified actions regarding its dissolution, including implementing the transition plan and collecting and disbursing specified revenues. The bill would authorize an underlying land use jurisdiction to adopt a substitute funding mechanism in lieu of the community facilities district established for the Fort Ord area if the jurisdiction commits to continue funding specified regional needs. The bill would also deem the transition plan to be within the scope of a specified categorical exemption from the California Environmental Quality Act.

(4) Existing law establishes procedures for the establishment and operation of all redevelopment project areas created within the area previously known as Fort Ord. Existing law, upon dissolution of the authority, requires that amounts allocated under a redevelopment plan that contains a provision for the division of taxes, if any levied upon taxable property within a redevelopment project, continue to be paid to the accounts of the authority insofar as needed to pay principal and interest or other amounts of debt incurred by the authority.

This bill would make these provisions governing the establishment and operation of redevelopment project areas created within Fort Ord inoperative as of the date of the dissolution of the Fort Ord Reuse Authority or the retirement of the authority's debt, whichever occurs later. The bill, upon dissolution of the authority or retirement of its debt, whichever occurs later, would require that any remaining property tax revenues allocated to the authority be transferred to the auditor-controller of the County of Monterey for appropriate distribution.

(5) This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Monterey.

(6) By adding to the duties of various local agencies with respect to the dissolution of the Fort Ord Reuse Authority, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 67652 of the Government Code is
2 amended to read:

3 67652. The Legislature finds and declares as follows:

4 (a) The policy set forth in Section 67651 is most likely to be
5 achieved if an effective governmental structure exists to plan for,
6 finance, and carry out the transfer and reuse of the base in a
7 cooperative, coordinated, balanced, and decisive manner.

8 (b) The transition plan, adopted by the Ford Ord Reuse
9 Authority, will assure that ongoing, mandated requirements
10 continue to be funded and addressed within the region covered by
11 the authority, which will collect and distribute revenue for the
12 limited environmental and infrastructure mission.

13 SEC. 2. Section 67655 of the Government Code is amended
14 to read:

15 67655. Unless the context otherwise requires, the definitions
16 contained in this chapter govern the construction of this title.

17 (a) "Authority" means the Fort Ord Reuse Authority.

18 (b) "Base-wide facility" means a public capital facility which,
19 in the judgment of the board, is important to the overall reuse of
20 Fort Ord, and has significance beyond any single city or the
21 unincorporated area of the county.

22 (c) "Board" means the governing board of the authority, as
23 specified in Section 67660.

24 (d) "Community facilities district revenues" means the revenues
25 collected ~~from the authority~~. *by the authority pursuant to the*

1 *Mello-Roos Community Facilities Act of 1982 (Chapter 2.5*
2 *(commencing with Section 53311) of Part 1 of Division 2 of Title*
3 *5).*

4 (e) “Fort Ord Reuse Plan” means the plan for the future use of
5 Fort Ord adopted pursuant to Section 67675.

6 (f) “Legislative body” means the city council of a city or the
7 board of supervisors of a county, or the legislative body or
8 governing board of any other public agency.

9 (g) “Local facility” means a public capital facility which, in the
10 judgment of the board, is important primarily within a single city
11 or the unincorporated area of the county.

12 (h) “Member agency” means the County of Monterey, the City
13 of Del Rey Oaks, the City of Marina, the City of Monterey, or the
14 City of Seaside.

15 (i) “Fort Ord,” including references to the territory or area of
16 Fort Ord, means the geographical area described in the document
17 entitled “Description of the Fort Ord Military Reservation Including
18 Portion of the Monterey City Lands Tract No. 1, the Saucito,
19 Laguna Seca, El Chamisal, El Toro and Noche Buena Ranchos,
20 the James Bardin Partition of 1880 and Townships 14 South,
21 Ranges 1 and 2 East and Townships 15 South, Ranges 2 and 3
22 East, M.D.B. and M. Monterey County, California,” prepared by
23 Bestor Engineers, Inc., and delivered to the Sacramento District
24 Corps of Engineers on April 11, 1994.

25 (j) “Property tax revenues” means the amount of property tax
26 revenues allocated to the authority pursuant to Section 33492.71
27 of the Healthy and Safety Code.

28 (k) “Public capital facilities” means all public capital facilities
29 described in the Fort Ord Reuse Plan, including, but not limited
30 to, roads, freeways, ramps, air transportation facilities and freight
31 hauling and handling facilities, sewage and water conveyance and
32 treatment facilities, school, library, and other educational facilities,
33 and recreational facilities, that could most efficiently and
34 conveniently be planned, negotiated, financed, or constructed by
35 the authority to further the integrated future use of Fort Ord.

36 (l) “Redevelopment authority,” for purposes of the transfer of
37 property at military bases pursuant to Title XXIX of the National
38 Defense Authorization Act for the 1994 fiscal year, means the Fort
39 Ord Reuse Authority, except that, with respect to property within
40 the territory of Fort Ord that is transferred or to be transferred to

1 the California State University or to the University of California,
2 “redevelopment authority” solely for purposes of the transfer of
3 property at military bases pursuant to Title XXIX of the National
4 Defense Authorization Act for the 1994 fiscal year means the
5 California State University or the University of California, and
6 does not mean the Fort Ord Reuse Authority.

7 (m) “Transition plan” means the plan for the dissolution of the
8 authority adopted by the board, as required by subdivision (c) of
9 Section 67700.

10 (n) “Underlying land use jurisdiction” means, singularly or in
11 the plural, the City of Monterey, the City of Del Rey Oaks, the
12 City of Seaside, the City of Marina, *or* the County of ~~Monterey,~~
13 ~~or the California State University.~~ *Monterey.*

14 SEC. 3. Section 67660 of the Government Code is amended
15 to read:

16 67660. (a) The authority shall be governed by a board of five
17 members composed of the following:

- 18 (1) One member appointed by the City of Del Rey Oaks.
- 19 (2) One member appointed by the City of Marina.
- 20 (3) One member appointed by the City of Monterey.
- 21 (4) One member appointed by the City of Seaside.
- 22 (5) One member appointed by Monterey County.

23 (b) Notwithstanding subdivision (a), any local agency that does
24 not adopt a resolution favoring establishment of the Fort Ord Reuse
25 Authority pursuant to Section 67656 shall not be required to
26 appoint a voting member to the board. The failure of a local agency
27 to appoint a voting member to the board pursuant to this
28 subdivision shall not alter or reduce the powers and duties of the
29 authority or the board in any manner.

30 (c) Each member agency may appoint one alternate for each of
31 its positions on the board, and each alternate shall have all the
32 rights and authority of a board member when serving in that board
33 member’s place.

34 (d) Each board member and each alternate shall be a member
35 of the legislative body making the appointment, except that the
36 alternate appointed by the Monterey County Board of Supervisors
37 shall be a member of the board of supervisors or county staff.
38 Board members and alternates shall serve at the pleasure of the
39 member agency making the appointment.

1 (e) The vote of a majority of the total membership of the board
2 shall be required to pass or act upon any matter properly before
3 the board, and each member of the board shall have one vote.

4 SEC. 4. Section 67661 of the Government Code is repealed.

5 SEC. 5. Section 67662 of the Government Code is repealed.

6 SEC. 6. Section 67673 of the Government Code is repealed.

7 SEC. 7. Section 67675.2 of the Government Code is repealed.

8 SEC. 8. Section 67675.3 of the Government Code is repealed.

9 SEC. 9. Section 67675.4 of the Government Code is repealed.

10 SEC. 10. Section 67675.5 of the Government Code is repealed.

11 SEC. 11. Section 67675.6 of the Government Code is repealed.

12 SEC. 12. Section 67675.7 of the Government Code is repealed.

13 SEC. 13. Section 67675.8 of the Government Code is repealed.

14 SEC. 14. Section 67675.9 of the Government Code is repealed.

15 SEC. 15. Section 67690 of the Government Code is repealed.

16 SEC. 16. Section 67700 of the Government Code is amended

17 to read:

18 67700. (a) (1) This title shall become inoperative on June 30,
19 2022.

20 (2) This title shall remain in effect only until January 1, 2023,
21 and as of that date is repealed.

22 (b) No later than June 30, 2022, the authority shall negotiate
23 and secure one or more successor agencies to implement all
24 obligations under the transition plan.

25 (c) (1) The Monterey County Local Agency Formation
26 Commission shall provide for the orderly dissolution of the
27 authority once an agreement with a successor agency has been
28 finalized. The Monterey County Local Agency Formation
29 Commission shall ensure that all contracts, agreements, and pledges
30 to pay or repay money entered into by the authority are honored
31 and properly administered, and that all assets of the authority are
32 appropriately transferred.

33 (2) The board shall approve and submit a transition plan to the
34 Monterey County Local Agency Formation Commission on or
35 before December 30, 2018. The transition plan shall assign assets
36 and liabilities, designate responsible successor agencies, and
37 provide a schedule of remaining obligations. The transition plan
38 shall be approved only by a majority vote of the board.

39 (d) Upon dissolution of the authority, all remaining and future
40 community facilities district revenues shall be transferred to the

1 County of Monterey. The County of Monterey shall disburse those
2 community facilities district revenues to each underlying land use
3 jurisdiction on a pro rata basis, based on the source of the revenue
4 or another method that the County of Monterey determines is
5 reasonable.

6 (e) If the authority has any remaining outstanding debt at the
7 time of its dissolution, property tax revenues shall continue to be
8 paid to the County of Monterey in accordance with subparagraph
9 (D) of paragraph (1) of subdivision (c) of Section 33492.71 of the
10 Health and Safety Code in an amount necessary to pay the principal
11 and interest or other amounts on that debt. Upon the dissolution
12 of the authority or the retirement of debt as provided in this
13 subdivision, whichever occurs later, any remaining property tax
14 revenues shall be transferred to the auditor-controller of the County
15 of Monterey for appropriate distribution.

16 (f) If the County of Monterey succeeds to any financial
17 obligation of the authority as a result of the disbursement of
18 remaining revenues or the retirement of debt, that obligation shall
19 not constitute a debt or liability of the county, or any other member
20 agency, but shall be payable solely from the remaining revenues
21 provided for purposes of that obligation in the transition plan.

22 (g) The County of Monterey may, before disbursing revenues
23 as provided in this section, deduct an amount equal to the
24 reasonable cost of administering this section out of the remaining
25 revenues of the authority to be disbursed.

26 SEC. 17. Section 67701 is added to the Government Code, to
27 read:

28 67701. (a) On and after July 1, 2020, the authority may do all
29 of the following:

- 30 (1) Implement the transition plan.
- 31 (2) Manage the community facilities district boundaries.
- 32 (3) Make appropriate revisions to the boundaries of the
33 community facilities district established by the board as
34 replacement funding mechanisms are created by underlying land
35 use jurisdictions pursuant to subdivision (b). Revisions to the
36 community facilities district boundaries shall be made by filing
37 an amended map of the community facilities district.
- 38 (4) Collect and disburse community facilities district revenues.
- 39 (5) Collect and disburse property tax revenues.

1 (6) Disburse revenues ~~collected~~ *described in paragraphs (4)*
2 *and (5)* for the purposes of the habitat conservation plan,
3 transportation, transit, and water supply pursuant to Section 67675.

4 (7) Continue as the local reuse authority for purposes of the
5 federal government and property transfers, including receipt of
6 federal grant funding.

7 (8) Ensure that all pledges, contracts, or obligated ~~payment~~
8 *payments* are funded and appropriately carried out.

9 (b) Any underlying land use jurisdiction may adopt a substitute
10 funding mechanism in lieu of the community facilities district
11 established by the board, in which case the board shall adjust the
12 boundaries of the community facilities district accordingly. An
13 underlying land use jurisdiction that adopts a substitute funding
14 mechanism pursuant to this subdivision shall commit, either in
15 that substitute funding mechanism or otherwise in a written
16 agreement, to continue funding regional needs in the former Fort
17 Ord on a pro rata basis, to the satisfaction of the authority. For
18 purposes of this subdivision, “regional needs” includes, but is not
19 limited to, habitat conservation, transportation, transit, and water
20 supply augmentation.

21 (c) The ~~transitional~~ *transition* plan adopted by the board for
22 organizational changes shall be deemed to be within the scope of
23 the Class 20 exemption provided by Section 15320 of Title 14 of
24 the California Code of Regulations.

25 SEC. 18. Section 33492.79 is added to the Health and Safety
26 Code, to read:

27 33492.79. This article shall become inoperative as of the date
28 of the dissolution of the Fort Ord Reuse Authority pursuant to
29 Section 67700 of the Government Code or the retirement of the
30 authority’s debt as provided in subdivision (e) of Section 67700
31 of the Government Code, whichever occurs later.

32 SEC. 19. The Legislature finds and declares that a special
33 statute is necessary and that a general statute cannot be made
34 applicable within the meaning of Section 16 of Article IV of the
35 California Constitution because of the unique circumstances in the
36 County of Monterey relating to the dissolution of the Ford Ord
37 Reuse Authority.

38 SEC. 20. If the Commission on State Mandates determines
39 that this act contains costs mandated by the state, reimbursement
40 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O