

AMENDED IN SENATE APRIL 13, 2023
AMENDED IN SENATE MARCH 22, 2023

SENATE BILL

No. 747

Introduced by Senator Caballero

February 17, 2023

An act to amend Sections 52200, 52200.6, 52201, 54221, 54222, 54226, 54230, 54230.5, and 54234 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 747, as amended, Caballero. Land use: economic development: surplus land.

(1) Existing law authorizes a city, county, or city and county, with the approval of its legislative body by resolution after a public hearing, to acquire, sell, or lease property in furtherance of the creation of an economic opportunity, as defined. Existing law specifies the Legislature's intent regarding those provisions.

This bill would authorize a city, county, or city and county, in addition to a sale or lease, to otherwise transfer property to create an economic opportunity. The bill would make related, conforming changes. The bill would additionally state the Legislature's intent is to ensure that residents of the state have access to jobs that allow them to afford housing without the need for public subsidies.

Existing law provides that the creation of an economic opportunity under that law is subject to certain notice and disclosure provisions. These provisions require each local agency, before approving an economic development subsidy within its jurisdiction, to provide specified information in written form to the public and through its internet website, if available, about the business entities that are the

beneficiary of the economic development subsidy, the start and end dates and schedule of the subsidy, other related information, and to hold public hearings and report on those subsidies at specified intervals.

This bill would subject the creation of an economic opportunity under the above-described provisions to only the above-described requirements regarding providing information to the public on that economic opportunity. The bill would specify that these provisions are an alternative to any other authority or procedures for cities and counties to acquire, sell, lease, or otherwise transfer real property owned by a city or county.

(2) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines “surplus land” for those purposes to generally mean land owned in fee simple by a local agency for which the local agency’s governing body takes formal action in a public meeting declaring that the land is surplus and not necessary for the agency’s use. Existing law provides that these requirements do not apply to the disposal of exempt surplus land by an agency of the state or any local government. Existing law requires a local agency to declare land as either surplus land or exempt surplus land, as supported by written findings, before a local agency may take any action to dispose of it. Under existing law, exempt surplus land includes, among other types of land, property that is used by a district for an “agency’s use” as expressly authorized, land for specified developments, including a mixed-use development, if put out to open, competitive bid by a local agency, as specified, and surplus land that is subject to specified valid legal restrictions.

This bill would define the term “dispose” for these purposes to mean the sale of the surplus property or a lease of any surplus property *entered into on or after January 1, 2024*, for a term longer than 35 years, including renewal options, as specified. The bill would also redefine the term “agency’s use” to include use for transit or transit-oriented development, property owned by a port that is used to support logistics uses, airports, state tidelands, sites for broadband equipment or wireless facilities, and waste disposal sites. The bill would define a district relative to an “agency’s use” to include infrastructure financing districts, enhanced infrastructure financing districts, community revitalization and investment authorities, affordable housing authorities, transit village development districts, and climate resilience districts.

This bill would revise and recast certain of the provisions related to exempt surplus land, including surplus land that is not contiguous to

land owned by a state or local agency, that is used for open space or low- and moderate- income housing purposes and meets specified conditions, surplus land that is a former parking lot that is conveyed to an owner of an adjacent property, and provisions related to mixed-use developments, among others. The bill would also specify that certain legal restrictions are valid legal restrictions and would require that for surplus land that is subject to valid legal restrictions to be considered exempt surplus land, the valid restrictions must be included as part of the local agency's above-described written findings. The bill would also include as exempt surplus land, land that is jointly developed or used for a joint development, land that was purchased using federal funds, land transferred to a community land trust, as specified, and additional categories of land determined by the department, including sites that are not suitable for housing.

This bill would authorize a local agency to administratively declare that land is exempt surplus land, if the declaration and findings are *posted on the local agency's internet website*, published and available for public comment, including giving notice to specified entities, at least 30 days before the declarations take effect. The bill would make the local agency's declaration presumed conclusive, except as specified. The bill would specify that the law governing surplus land does not require a local agency to dispose of land that is determined to be surplus. The bill would specify that the requirements for the disposal of surplus land by a local agency do not apply to properties that a local agency proposes to sell, lease, or otherwise transfer under the above-described economic opportunity provisions.

Existing law generally requires a local agency disposing of surplus land to send a written notice of availability of the property to specified entities prior to disposing of that property or participating in negotiations to dispose of that property with a prospective transferee.

This bill would create an exception from that notice requirement if the prospective transferee is an affordable housing developer proposing to develop an affordable housing project on the site ~~which~~ *that* will meet or exceed a 25% affordability threshold, as described.

Under existing law, a local agency that disposes of surplus land after receiving a notification from the Department of Housing and Community Development that the agency is in violation of the law is liable for 30% of the final sale price of the land. Existing law authorizes certain entities and interested persons to bring an action to enforce these provisions. Existing law grants a local agency 60 days to cure or correct an alleged

violation before an action may be brought to enforce this provision, except as specified.

This bill would require a local agency, upon receiving a notice of a violation from the department, to consider the matter at a public meeting within 30 days if the local agency proceeds with the disposal. The bill would specify that following the public hearing, the local agency has 60 days to cure or correct an alleged violation before an action may be brought to enforce this provision.

Existing law further requires the department to review, adopt, amend, or repeal guidelines to establish uniform standards to implement this provision and specifies that those guidelines are not subject to the Administrative Procedure Act.

This bill would additionally require the department to solicit public comments for 30 days and consider and respond in writing to the public comments prior to adopting, amending, or repealing the guidelines. The bill would additionally require the department to provide the local agency an appeals process to overturn an adverse action by the department affecting the local agency overseen by an independent trier of fact.

Existing law provides that certain dispositions of real property by local agencies are subject to surplus land disposal procedures as they existed on December 31, 2019, if those dispositions are pursuant to specified legal agreements and the disposition is completed by December 31, 2022, or by December 31, 2024, if the property is located in a charter city with a population of over 2,000,000 persons and a local agency has an option agreement duly authorized by the governing body to purchase the property from a former redevelopment agency.

This bill would expand the applicability of those disposition procedures to December 31, 2025, as to property located in a city or county that entered into a legally binding agreement to dispose of the property prior to September 30, 2019, and the transferee has exercised one or more unilateral extension options which were a component of the original agreement.

With respect to land held in the Community Redevelopment Property Trust Fund or designated in a long-range property management plan either for sale or retained for future development, existing law provides that certain dispositions of real property by local agencies are subject to surplus land disposal procedures as they existed on December 31, 2019, if those dispositions are pursuant to specified legal agreements entered into not later than December 31, 2020, and the disposition is

completed by December 31, 2022, or by December 31, 2024, if the property is located in a charter city with a population of over 2,000,000 persons and a local agency has an option agreement authorized by the local agency's governing body to purchase the property from the former redevelopment agency.

This bill would expand the applicability of those disposition procedures for which an agreement has been entered into by December 31, 2020, if the disposition is completed by December 31, 2025, and the property is located in a city or county that entered into a legally binding agreement to dispose of the property before September 30, 2019, and the transferee has exercised one or more unilateral extension options which were a component of the original agreement.

By imposing new duties on local agencies, the 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 52200 of the Government Code is
2 amended to read:
3 52200. It is the intent of the Legislature to do all of the
4 following:
5 (a) Promote economic development on a local level so that
6 communities can enact local strategies to increase jobs, create
7 economic opportunity, and generate tax revenue for all levels of
8 government.
9 (b) Give local governments tools, at no cost to the state, that
10 allow local governments to use their funds in a manner that
11 promotes economic opportunity.
12 (c) With the loss of redevelopment funds, cities, counties, and
13 cities and counties need to continue certain powers afforded to
14 redevelopment agencies that were critical to economic

1 development, yet do not have an impact on schools and the state
2 budget.

3 (d) Ensure that residents of the state have access to jobs that
4 allow them to afford housing without the need for public subsidies.

5 SEC. 2. Section 52200.6 of the Government Code is amended
6 to read:

7 52200.6. (a) (1) This part shall not be interpreted to authorize
8 the use of eminent domain for economic development purposes.

9 (2) For the purposes of this part, a city, county, or city and
10 county shall not sell, lease, or otherwise transfer, at a price that is
11 less than the fair market value, any real property that was acquired
12 through eminent domain. This prohibition shall not apply to either
13 of the following:

14 (A) Any real property governed by a long-range property
15 management plan pursuant to Section 34191.5 of the Health and
16 Safety Code.

17 (B) Any housing asset transferred to a city, county, or city and
18 county pursuant to paragraph (1) of subdivision (a) of Section
19 34176 of the Health and Safety Code or subdivision (c) of Section
20 34181 of the Health and Safety Code, provided that the successor
21 agency or the designated local authority in the affected jurisdiction
22 has received a finding of completion from the Department of
23 Finance pursuant to Section 34179.7 of the Health and Safety
24 Code.

25 (b) The creation of an economic opportunity pursuant to this
26 part shall be subject only to the provisions of Section 53083.

27 (c) The provisions of this part are an alternative to any other
28 authority granted to, or procedures required by law for, cities or
29 counties to acquire, sell, lease, or otherwise transfer property owned
30 by a city or county.

31 SEC. 3. Section 52201 of the Government Code is amended
32 to read:

33 52201. (a) (1) A city, county, or city and county may acquire
34 property in furtherance of the creation of an economic opportunity.
35 A city, county, or city and county may sell, lease, or otherwise
36 transfer property to create an economic opportunity. The
37 acquisition, sale, lease, or transfer shall first be approved by the
38 legislative body by resolution after a public hearing. Notice of the
39 time and place of the hearing shall be published in a newspaper
40 of general circulation in the community at least once per week for

1 at least two successive weeks, as specified in Section 6066, prior
2 to the hearing.

3 (2) The city, county, or city and county shall make available,
4 for public inspection and copying at a cost not to exceed the cost
5 of duplication, a report no later than the time of publication of the
6 first notice of the hearing mandated by this section. This report
7 shall contain both of the following:

8 (A) A copy of the proposed acquisition, sale, lease, or transfer.

9 (B) A summary that describes and specifies all of the following:

10 (i) The cost of the agreement to the city, county, or city and
11 county, including land acquisition costs, clearance costs, relocation
12 costs, the costs of any improvements to be provided by the city,
13 county, or city and county, plus the expected interest on any loans
14 or bonds to finance the agreements.

15 (ii) For the sale, lease, or transfer of property, the estimated
16 value of the interest to be conveyed or leased, determined at the
17 highest and best uses permitted under the general plan or zoning.

18 (iii) For the sale, lease, or transfer of property, the estimated
19 value of the interest to be conveyed or leased, determined at the
20 use and with the conditions, covenants, and development costs
21 required by the sale, lease, or transfer. The purchase price or
22 present value of the lease payments which the lessor will be
23 required to make during the term of the lease. If the sale price or
24 total rental amount is less than the fair market value of the interest
25 to be conveyed or leased, determined at the highest and best use,
26 then the city, county, or city and county shall provide as part of
27 the summary an explanation of the reasons for the difference.

28 (iv) An explanation of why the acquisition, sale, lease, or
29 transfer of the property will assist in the creation of economic
30 opportunity, with reference to all supporting facts and materials
31 relied upon in making this explanation.

32 (b) The resolution approving the acquisition, sale, lease, or
33 transfer shall be adopted by a majority vote unless the legislative
34 body has provided by ordinance for a two-thirds vote for that
35 purpose and shall contain a finding that the acquisition, sale, lease,
36 or transfer of the property will assist in the creation of economic
37 opportunity. For the sale, lease, or transfer of property, the
38 resolution shall also contain one of the following findings:

39 (1) The consideration is not less than the fair market value at
40 its highest and best use.

(2) The consideration is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale, lease, or transfer.

(c) The provisions of this section are an alternative to any other procedures required by law or authority granted by law to a city, county, or city and county, to sell, lease, or otherwise transfer property owned by a city, county, or city and county.

SEC. 4. Section 54221 of the Government Code is amended to read:

54221. As used in this article, the following definitions shall apply:

(a) (1) “Local agency” means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.

(2) The Legislature finds and declares that the term “district” as used in this article includes all districts within the state, including, but not limited to, all special districts, sewer, water, utility, and local and regional park districts, and any other political subdivision of this state that is a district, and therefore the changes in paragraph (1) made by the act adding this paragraph that specify that the provisions of this article apply to all districts, including school, sewer, water, utility, and local and regional park districts of any kind or class, are declaratory of, and not a change in, existing law.

(b) (1) “Surplus land” means land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use. Land shall be declared either “surplus land” or “exempt surplus land,” as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency’s policies or procedures. A local agency, on an annual basis, may declare multiple parcels as “surplus land” or “exempt surplus land.” A local agency may administratively declare ~~that land is as~~ “exempt surplus land” pursuant to subdivision (e) if the declaration and findings are *posted on the local agency’s internet website or*

1 published and available for public comment, and notice to the
2 entities identified in subdivision (a) of Section 54222 occurs, at
3 least 30 days before the declaration takes effect. A local agency's
4 declaration, determination, and written findings pursuant to this
5 paragraph *section* shall be presumed conclusive, unless a
6 prejudicial abuse of discretion is *clearly* established.

7 (2) "Surplus land" includes land held in the Community
8 Redevelopment Property Trust Fund pursuant to Section 34191.4
9 of the Health and Safety Code and land that has been designated
10 in the long-range property management plan approved by the
11 Department of Finance pursuant to Section 34191.5 of the Health
12 and Safety Code, either for sale or for future development, but
13 does not include any specific disposal of land to an identified entity
14 described in the plan.

15 (c) (1) Except as provided in paragraph (2), "agency's use"
16 shall include, but not be limited to, land that is being used, is
17 planned to be used pursuant to a written plan adopted by the local
18 agency's governing board for, or is disposed to support pursuant
19 to subparagraph (B) of paragraph (2) agency work or operations,
20 including, but not limited to, utility sites, parcels used or planned
21 to be used for transit or transit-oriented development, property
22 owned by a port that is used to support logistics uses, airports,
23 state tidelands, watershed property, land being used for
24 conservation purposes, land for demonstration, exhibition, or
25 educational purposes related to greenhouse gas emissions, sites
26 for broadband equipment or wireless facilities, and buffer sites
27 near sensitive governmental uses, including, but not limited to,
28 waste disposal sites, and waste water treatment plants.

29 (2) (A) "Agency's use" shall not include commercial or
30 industrial uses or activities, including nongovernmental retail,
31 entertainment, or office development. Property disposed of for the
32 sole purpose of investment or generation of revenue shall not be
33 considered necessary for the agency's use.

34 (B) In the case of a local agency that is a district, including, but
35 not limited to, those described in clause (iii), "agency's use" may
36 include commercial or industrial uses or activities, including
37 nongovernmental retail, entertainment, or office development or
38 be for the sole purpose of investment or generation of revenue if
39 the agency's governing body takes action in a public meeting
40 declaring that the use of the site will do one of the following:

1 (i) Directly further the express purpose of agency work or
2 operations.

3 (ii) Be expressly authorized by a statute governing the local
4 agency, provided the district complies with Section 54233.5 where
5 applicable.

6 (iii) For the purposes of this subparagraph, a district includes,
7 but is not limited to, any of the following:

8 (I) A district, as referenced in paragraph (2) of subdivision (a).

9 (II) An infrastructure finance district established pursuant to
10 Chapter 2.8 (commencing with Section 53395) of Part 1 of Division
11 2 of Title 5.

12 (III) An enhanced infrastructure financing district established
13 pursuant to Chapter 2.99 (commencing with Section 53398.50) of
14 Part 1 of Division 2 of Title 5.

15 (IV) A community revitalization and investment authority
16 established pursuant to Division 4 (commencing with Section
17 62000) of Title 6.

18 (V) An affordable housing authority established pursuant to
19 Division 5 (commencing with Section 62250) of Title 6.

20 (VI) A transit village development district established pursuant
21 to Article 8.5 (commencing with Section 65460) of Chapter 3 of
22 Division 1 of Title 7.

23 (VII) A climate resilience district established pursuant to
24 Division 6 (commencing with Section 62300) of Title 6.

25 (d) “Dispose” means either of the following:

26 (1) The sale of the surplus land.

27 (2) The *entering of a lease* ~~of for surplus land~~ *and land, which is for*
28 *a term longer than 35 years, including renewal options included*
29 *in the terms of the initial* ~~lease~~ *lease, entered into on or after*
30 *January 1, 2024.*

31 (e) (1) Except as provided in paragraph (2), “exempt surplus
32 land” means any of the following:

33 (A) Surplus land that is transferred pursuant to Section 25539.4
34 or 37364.

35 (B) Surplus land that is not contiguous to land owned by a state
36 or local agency that is used for open space or low- and
37 moderate-income housing purposes and meets any of the following
38 conditions:

39 (i) Is less than 5,000 square feet in area.

1 (ii) Is less than the minimum legal residential building lot size
2 for the jurisdiction in which the parcel is located, or 5,000 square
3 feet in area, whichever is less.

4 (iii) Has no record access and is less than 10,000 square feet in
5 area.

6 (iv) Is sold or leased to an owner of contiguous land.

7 (C) Surplus land that a local agency is exchanging for another
8 property interest necessary for the agency's use.

9 (D) Surplus land that a local agency is transferring to another
10 local, state, or federal agency, or to a third-party intermediary for
11 future dedication for the receiving agency's use, or to a federally
12 recognized California Indian tribe.

13 (E) Surplus land that is a former street, right-of-way, parking
14 lot, or easement, and is conveyed to an owner of an adjacent
15 property.

16 (F) A housing development, which may have ancillary
17 commercial ground floor uses, that restricts 100 percent of the
18 residential units to persons and families of low or moderate income,
19 with at least 75 percent of the residential units restricted to lower
20 income households, as defined in Section 50079.5 of the Health
21 and Safety Code, with an affordable sales price or an affordable
22 rent, as defined in Sections 50052.5 or 50053 of the Health and
23 Safety Code, for a minimum of 55 years for rental housing and 45
24 years for ownership housing, and in no event shall the maximum
25 affordable sales price or rent level be higher than 20 percent below
26 the median market rents or sales prices for the neighborhood in
27 which the site is located.

28 (G) A mixed-use development, which may include more than
29 one publicly owned parcel, that restricts at least 25 percent of the
30 residential units to lower income households, as defined in Section
31 50079.5 of the Health and Safety Code, with an affordable sales
32 price or an affordable rent, as defined in Sections 50052.5 and
33 50053 of the Health and Safety Code, for a minimum of 55 years
34 for rental housing and 45 years for ownership housing.

35 (H) Surplus land that is subject to valid legal restrictions that
36 are not imposed by the local agency and that would make housing
37 prohibited, unless there is a feasible method to satisfactorily
38 mitigate or avoid the prohibition on the site.

39 (i) Valid legal restrictions include, but are not limited to, all of
40 the following:

1 (I) Existing constraints under ownership rights or contractual
2 obligations that prevent the use of the property for housing.

3 (II) Conservation or other easements or encumbrances that
4 prevent housing development.

5 (III) Existing leases, or other contractual obligations or
6 restrictions.

7 (IV) A requirement for voter approval to transfer the property.

8 (ii) Feasible methods to mitigate or avoid a valid legal restriction
9 on the site do not include a requirement that the local agency
10 acquire additional property rights or property interests belonging
11 to third parties.

12 (iii) An existing nonresidential land use designation on the
13 surplus land is not a legal restriction that would make housing
14 prohibited for purposes of this subparagraph.

15 (iv) Prior to disposition of the surplus land, the local agency
16 ~~includes~~ *shall include* in its written findings adopted pursuant to
17 subdivision (b) the relevant legal restrictions as described in this
18 subparagraph.

19 (I) Surplus land that was granted by the state in trust to a local
20 agency or that was acquired by the local agency for trust purposes
21 by purchase or exchange, and for which disposal of the land is
22 authorized or required subject to conditions established by statute.

23 (J) Land that is subject to Sections 17388, 17515, 17536, 81192,
24 81397, 81399, 81420, and 81422 of the Education Code and Part
25 14 (commencing with Section 53570) of Division 31 of the Health
26 and Safety Code, unless compliance with this article is expressly
27 required.

28 (K) Surplus land that is a former military base that was conveyed
29 by the federal government to a local agency, and is subject to
30 Article 8 (commencing with Section 33492.125) of Chapter 4.5
31 of Part 1 of Division 24 of the Health and Safety Code, provided
32 that all of the following conditions are met:

33 (i) The former military base has an aggregate area greater than
34 five acres, is expected to include a mix of residential and
35 nonresidential uses, and is expected to include no fewer than 1,400
36 residential units upon completion of development or redevelopment
37 of the former military base.

38 (ii) The affordability requirements for residential units shall be
39 governed by a settlement agreement entered into prior to September
40 1, 2020. Furthermore, at least 25 percent of the initial 1,400

1 residential units developed shall be restricted to lower income
2 households, as defined in Section 50079.5 of the Health and Safety
3 Code, with an affordable sales price or an affordable rent, as
4 defined in Sections 50052.5 and 50053 of the Health and Safety
5 Code, for a minimum of 55 years for rental housing and 45 years
6 for ownership housing.

7 (iii) Prior to disposition of the surplus land, the agency adopts
8 written findings that the land is exempt surplus land pursuant to
9 this subparagraph.

10 (iv) Prior to the disposition of the surplus land, the recipient has
11 negotiated a project labor agreement consistent with the local
12 agency's project stabilization agreement resolution, as adopted on
13 February 2, 2021, and any succeeding ordinance, resolution, or
14 policy, regardless of the length of the agreement between the local
15 agency and the recipient.

16 (v) The agency includes in the annual report required by
17 paragraph (2) of subdivision (a) of Section 65400 the status of
18 development of residential units on the former military base,
19 including the total number of residential units that have been
20 permitted and what percentage of those residential units are
21 restricted for persons and families of low or moderate income, as
22 defined in Section 50093 of the Health and Safety Code, or lower
23 income households, as defined in Section 50079.5 of the Health
24 and Safety Code.

25 A violation of this subparagraph is subject to the penalties
26 described in Section 54230.5. Those penalties are in addition to
27 any remedy a court may order for violation of this subparagraph
28 or the settlement agreement.

29 (L) Real property that is used by a district for agency's use
30 expressly authorized in subdivision (c).

31 (M) Land that has been transferred before June 30, 2019, by the
32 state to a local agency pursuant to Section 32667 of the Streets
33 and Highways Code and has a minimum planned residential density
34 of at least 100 dwelling units per acre, and includes 100 or more
35 residential units that are restricted to persons and families of low
36 or moderate income, as defined in Section 50093 of the Health
37 and Safety Code, with an affordable sales price or an affordable
38 rent, as defined in Sections 50052.5 and 50053 of the Health and
39 Safety Code, for a minimum of 55 years for rental housing and 45
40 years for ownership housing. For purposes of this subparagraph,

1 not more than 20 percent of the affordable units may be restricted
2 to persons and families of moderate income and at least 80 percent
3 of the affordable units must be restricted to persons and families
4 of lower income as defined in Section 50079.5 of the Health and
5 Safety Code.

6 (N) Land that is jointly developed or used for a joint
7 development as authorized in Section 99420 of the Public Utilities
8 Code.

9 (O) Land that was purchased using federal funds and for which
10 a federal agency has authorized the use of the land for specific
11 purposes.

12 (P) Land that is transferred to a community land trust, and all
13 of the following conditions are met:

14 (i) The property is being or will be developed or rehabilitated
15 as any of the following:

16 (I) An owner-occupied single-family dwelling.

17 (II) An owner-occupied unit in a multifamily dwelling.

18 (III) A member-occupied unit in a limited equity housing
19 cooperative.

20 (IV) A rental housing development.

21 (ii) Improvements on the property are or will be available for
22 use and ownership or for rent by qualified persons, as defined in
23 paragraph (6) of subdivision (c) of Section 214.18 of the Revenue
24 and Taxation Code.

25 (iii) (I) A deed restriction or other instrument, requiring a
26 contract or contracts serving as an enforceable restriction on the
27 sale or resale value of owner-occupied units or on the affordability
28 of rental units is recorded on or before the lien date following the
29 acquisition of the property by the community land trust.

30 (II) For purposes of this clause, the following definitions apply:

31 (ia) “A contract or contracts serving as an enforceable restriction
32 on the sale or resale value of owner-occupied units” means a
33 contract described in paragraph (11) of subdivision (a) of Section
34 402.1 of the Revenue and Taxation Code.

35 (ib) “A contract or contracts serving as an enforceable restriction
36 on the affordability of rental units” means an enforceable and
37 verifiable agreement with a public agency, a recorded deed
38 restriction, or other legal document described in subparagraph (A)
39 of paragraph (2) of subdivision (g) of Section 214 of the Revenue
40 and Taxation Code.

1 (iv) A copy of the deed restriction or other instrument shall be
2 provided to the assessor.

3 (Q) Additional categories of exempt surplus land as determined
4 by the department, including, but not limited to, sites that are not
5 suitable for housing.

6 (2) Notwithstanding paragraph (1), a written notice of the
7 availability of surplus land for open-space purposes shall be sent
8 to the entities described in subdivision (b) of Section 54222 prior
9 to disposing of the surplus land, provided the land does not meet
10 the criteria in subparagraph (I) of paragraph (1), if the land is any
11 of the following:

12 (A) Within a coastal zone.

13 (B) Adjacent to a historical unit of the ~~State Parks System~~. *state*
14 *parks system*.

15 (C) Listed on, or determined by the State Office of Historic
16 Preservation to be eligible for, the National Register of Historic
17 Places.

18 (D) Within the Lake Tahoe region as defined in Section 66905.5.

19 (f) “Open-space purposes” means the use of land for public
20 recreation, enjoyment of scenic beauty, or conservation or use of
21 natural resources.

22 (g) “Persons and families of low or moderate income” has the
23 same meaning as provided in Section 50093 of the Health and
24 Safety Code.

25 SEC. 5. Section 54222 of the Government Code is amended
26 to read:

27 54222. Except as provided in Division 23 (commencing with
28 Section 33000) of the Public Resources Code, any local agency
29 disposing of surplus land shall send, prior to disposing of that
30 property or participating in negotiations to dispose of that property
31 with a prospective transferee other than an affordable housing
32 developer proposing to develop an affordable housing project on
33 the site that meets or exceeds the 25-percent affordability threshold
34 described in Section 54222.5, a written notice of availability of
35 the property to all of the following:

36 (a) (1) A written notice of availability for the purpose of
37 developing low- and moderate-income housing shall be sent to
38 any local public entity, as defined in Section 50079 of the Health
39 and Safety Code, within whose jurisdiction the surplus land is
40 located. Housing sponsors, as defined by Section 50074 of the

1 Health and Safety Code, that have notified the Department of
2 Housing and Community Development of their interest in surplus
3 land shall be sent a notice of availability of surplus land for the
4 purpose of developing low- and moderate-income housing. All
5 notices shall be sent by electronic mail, or by certified mail, and
6 shall include the location and a description of the property.

7 (2) The Department of Housing and Community Development
8 shall maintain on its internet website an up-to-date listing of all
9 notices of availability throughout the state.

10 (b) A written notice of availability for open-space purposes shall
11 be sent:

12 (1) To any park or recreation department of any city within
13 which the land may be situated.

14 (2) To any park or recreation department of the county within
15 which the land is situated.

16 (3) To any regional park authority having jurisdiction within
17 the area in which the land is situated.

18 (4) To the State Resources Agency or any agency that may
19 succeed to its powers.

20 (c) A written notice of availability of land suitable for school
21 facilities construction or use by a school district for open-space
22 purposes shall be sent to any school district in whose jurisdiction
23 the land is located.

24 (d) A written notice of availability for the purpose of developing
25 property located within an infill opportunity zone designated
26 pursuant to Section 65088.4 or within an area covered by a transit
27 village plan adopted pursuant to the Transit Village Development
28 Planning Act of 1994 (Article 8.5 (commencing with Section
29 65460) of Chapter 3 of Division 1 of Title 7) shall be sent to any
30 county, city, city and county, successor agency to a former
31 redevelopment agency, public transportation agency, or housing
32 authority within whose jurisdiction the surplus land is located.

33 (e) The entity or association desiring to purchase or lease the
34 surplus land for any of the purposes authorized by this section
35 shall notify in writing the disposing agency of its interest in
36 purchasing or leasing the land within 60 days after the agency's
37 notice of availability of the land is sent via certified mail or
38 provided via electronic mail.

39 (f) For the purposes of this section, "participating in
40 negotiations" does not include the commissioning of appraisals,

1 due diligence prior to disposition, discussions with brokers or real
2 estate agents not representing a potential buyer, or other studies
3 to determine value or best use of land, issuance of a request for
4 qualifications, development of marketing materials, or discussions
5 conducted exclusively among local agency employees and elected
6 officials.

7 SEC. 6. Section 54226 of the Government Code is amended
8 to read:

9 54226. (a) This article shall not be interpreted to limit the
10 power of any local agency to sell or lease surplus land at fair market
11 value or at less than fair market value, and any sale or lease at or
12 less than fair market value consistent with this article shall not be
13 construed as inconsistent with an agency's purpose.

14 (b) This article shall not prevent a local agency from obtaining
15 fair market value for the disposition of surplus land consistent with
16 this section.

17 (c) This article shall not be interpreted to limit a local agency's
18 authority or discretion to approve land use, zoning, or entitlement
19 decisions in connection with the surplus land.

20 (d) This article shall not be interpreted to require a local agency
21 to dispose of land that is determined to be surplus.

22 (e) This article shall not apply to properties that a local agency
23 proposes to sell, lease, or otherwise transfer pursuant to Part 4
24 (commencing with Section 52200) of Division 1 of Title 5.

25 (f) This article shall not apply when it conflicts with any other
26 provision or authority of statutory law.

27 SEC. 7. Section 54230 of the Government Code is amended
28 to read:

29 54230. (a) (1) On or before December 31 of each year, each
30 county and each city shall make a central inventory of all surplus
31 land, as defined in subdivision (b) of Section 54221, and all lands
32 in excess of its foreseeable needs, if any, identified pursuant to
33 Section 50569, located in all urbanized areas and urban clusters,
34 as designated by the United States Census Bureau, within the
35 jurisdiction of the county or city that the county or city or any of
36 its departments, agencies, or authorities owns or controls.

37 (2) (A) Subject to subparagraph (C), each county and each city
38 shall make a description of each parcel described in paragraph (1)
39 and the present use of the parcel a matter of public record and shall
40 report this information to the Department of Housing and

1 Community Development no later than April 1 of each year,
2 beginning April 1, 2021, in a form prescribed by the department,
3 as part of its annual progress report submitted pursuant to paragraph
4 (2) of subdivision (a) of Section 65400.

5 (B) The information reported pursuant to this paragraph shall
6 include, but not be limited to, the following information with
7 respect to each site:

8 (i) Street address, or similar location information.

9 (ii) Assessor's parcel number.

10 (iii) Existing use.

11 (iv) Whether the site is surplus land or exempt surplus land.

12 (v) Size in acres.

13 (C) The Department of Housing and Community Development
14 may, in its discretion, delay implementation of this paragraph until
15 April 1, 2022.

16 (3) Each county and each city, upon request, shall provide a list
17 of its surplus land and excess surplus land to an individual, limited
18 dividend corporation, housing corporation, or nonprofit corporation
19 without charge.

20 (b) The Department of Housing and Community Development
21 shall provide the information reported to it by a city or county
22 pursuant to paragraph (2) of subdivision (a) to the Department of
23 General Services for inclusion in a digitized inventory of all
24 state-owned parcels that are in excess of state needs.

25 (c) The Department of Housing and Community Development
26 may review, adopt, amend, and repeal standards, forms, and
27 definitions in order to implement this section. Any standards,
28 forms, or definitions adopted, amended, or repealed pursuant to
29 this subdivision are hereby exempt from the rulemaking provisions
30 of the Administrative Procedure Act (Chapter 3.5 (commencing
31 with Section 11340) of Part 1 of Division 3 of Title 2).

32 SEC. 8. Section 54230.5 of the Government Code is amended
33 to read:

34 54230.5. (a) (1) A local agency that disposes of land in
35 violation of this article after receiving a notification from the
36 Department of Housing and Community Development pursuant
37 to subdivision (b) that the local agency is in violation of this article
38 shall be liable for a penalty of 30 percent of the final sale price of
39 the land sold in violation of this article for a first violation and 50
40 percent for any subsequent violation. An entity identified in Section

1 54222 or a person who would have been eligible to apply for
2 residency in any affordable housing developed or a housing
3 organization as defined in Section 65589.5, or any beneficially
4 interested person or entity may bring an action to enforce this
5 section. Upon receiving a notice of violation from the department,
6 a local agency that proceeds with the disposal shall consider the
7 matter at a public meeting within 30 days. Following the public
8 meeting, a local agency shall have 60 days to cure or correct an
9 alleged violation before an action may be brought to enforce this
10 section, unless the local agency disposes of the land before curing
11 or correcting the alleged violation, or the department deems the
12 alleged violation not to be a violation in less than 60 days.

13 (2) A penalty assessed pursuant to this subdivision shall, except
14 as otherwise provided, be deposited into a local housing trust fund.
15 The local agency may elect to instead deposit the penalty moneys
16 into the Building Homes and Jobs Trust Fund or the Housing
17 Rehabilitation Loan Fund. Penalties shall not be paid out of funds
18 already dedicated to affordable housing, including, but not limited
19 to, Low and Moderate Income Housing Asset Funds, funds
20 dedicated to housing for very low, low-, and moderate-income
21 households, and federal HOME Investment Partnerships Program
22 and Community Development Block Grant Program funds. The
23 local agency shall commit and expend the penalty moneys
24 deposited into the local housing trust fund within five years of
25 deposit for the sole purpose of financing newly constructed housing
26 units that are affordable to extremely low, very low, or low-income
27 households.

28 (3) Five years after deposit of the penalty moneys into the local
29 housing trust fund, if the funds have not been expended, the funds
30 shall revert to the state and be deposited in the Building Homes
31 and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for
32 the sole purpose of financing newly constructed housing units
33 located in the same jurisdiction as the surplus land and that are
34 affordable to extremely low, very low, or low-income households.
35 Expenditure of any penalty moneys deposited into the Building
36 Homes and Jobs Trust Fund or the Housing Rehabilitation Loan
37 Fund pursuant to this subdivision shall be subject to appropriation
38 by the Legislature.

39 (b) (1) Prior to agreeing to terms for the disposition of surplus
40 land, a local agency shall provide to the Department of Housing

1 and Community Development a description of the notices of
2 availability sent, and negotiations conducted with any responding
3 entities, in regard to the disposal of the parcel of surplus land and
4 a copy of any restrictions to be recorded against the property
5 pursuant to Section 54233 or 54233.5, whichever is applicable, in
6 a form prescribed by the Department of Housing and Community
7 Development. A local agency may submit this information after
8 it has sent notices of availability required by Section 54222 and
9 concluded negotiations with any responding agencies. A local
10 agency shall not be liable for the penalty imposed by subdivision
11 (a) if the Department of Housing and Community Development
12 does not notify the agency that the agency is in violation of this
13 article within 30 days of receiving the description.

14 (2) The Department of Housing and Community Development
15 shall do all of the following:

16 (A) Make available educational resources and materials that
17 inform each agency of its obligations under this article and that
18 provide guidance on how to comply with its provisions.

19 (B) Review information submitted pursuant to paragraph (1).

20 (C) Submit written findings to the local agency within 30 days
21 of receipt of the description required by paragraph (1) from the
22 local agency if the proposed disposal of the land will violate this
23 article.

24 (D) Review, adopt, amend, or repeal guidelines to establish
25 uniform standards to implement this section. The guidelines
26 adopted pursuant to this subdivision are not subject to Chapter 3.5
27 (commencing with Section 11340) of Part 1 of Division 3 of Title
28 2. Prior to adopting, amending, or repealing guidelines, the
29 department shall do ~~all~~ *both* of the following:

30 (i) Solicit public comments on the proposed guidelines for at
31 least 30 days.

32 (ii) Consider and respond to public comments in writing.

33 (E) Provide the local agency reasonable time, but not less than
34 60 days, to respond to the findings before taking any other action
35 authorized by this section.

36 (F) Provide the local agency an appeals process *that is overseen*
37 *by an independent trier of fact* to overturn an adverse action taken
38 by the department authorized by this section affecting the local
39 ~~agency that is overseen by an independent trier of fact.~~ *agency.*

1 (3) (A) The local agency shall consider findings made by the
2 Department of Housing and Community Development pursuant
3 to subparagraph (B) of paragraph (2) and shall do one of the
4 following:

5 (i) Correct any issues identified by the Department of Housing
6 and Community Development.

7 (ii) Provide written findings explaining the reason its process
8 for disposing of surplus land complies with this article and
9 addressing the Department of Housing and Community
10 Development's findings.

11 (B) If the local agency does not correct issues identified by the
12 Department of Housing and Community Development, does not
13 provide findings explaining the reason its process for disposing of
14 surplus land complies with this article and addressing the
15 Department of Housing and Community Development's findings,
16 or if the Department of Housing and Community Development
17 finds that the local agency's findings are deficient in addressing
18 the issues identified by the Department of Housing and Community
19 Development, the Department of Housing and Community
20 Development shall notify the local agency, and may notify the
21 Attorney General, that the local agency is in violation of this article.

22 (c) The Department of Housing and Community Development
23 shall implement the changes in this section made by the act adding
24 this subdivision commencing on January 1, 2021.

25 (d) Notwithstanding subdivision (c), this section shall not be
26 construed to limit any other remedies authorized under law to
27 enforce this article including public records act requests pursuant
28 to Division 10 (commencing with Section 7920.000) of Title 1.

29 SEC. 9. Section 54234 of the Government Code is amended
30 to read:

31 54234. (a) (1) If a local agency, as of September 30, 2019,
32 has entered into an exclusive negotiating agreement or legally
33 binding agreement to dispose of property, the provisions of this
34 article as it existed on December 31, 2019, shall apply, without
35 regard to the changes made to this article by Chapter 664 of the
36 Statutes of 2019, and all subsequent amendments to this article,
37 to the disposition of the property to the party that had entered into
38 such agreement or its successors or assigns, provided the
39 disposition is completed by either of the following dates, as
40 applicable:

1 (A) December 31, 2022, unless either of the conditions described
2 in subparagraph (B) apply.

3 (B) (i) December 31, 2024, if the property is located in a charter
4 city with a population of over 2,000,000 persons and a local agency
5 has an option agreement duly authorized by the local agency's
6 governing body to purchase the property from the former
7 redevelopment agency.

8 (ii) December 31, 2025, if the property is located in a city or
9 county which entered into a legally binding agreement to dispose
10 of the property prior to September 30, 2019, and the transferee has
11 exercised one or more unilateral extension options which were a
12 component of the original agreement.

13 (2) If a local agency, as of September 30, 2019, has entered
14 into an exclusive negotiating agreement or legally binding
15 agreement to dispose of property related to the Metro North
16 Hollywood Joint Development Project, the provisions of this article
17 as it existed on December 31, 2019, shall apply, without regard to
18 the changes made to this article by Chapter 664 of the Statutes of
19 2019, and all subsequent amendments to this article, to the
20 disposition of the property to the party that had entered into such
21 agreement or its successors or assigns, provided the disposition is
22 completed not later than December 31, 2024.

23 (3) If a local agency, as of September 30, 2019, has issued a
24 competitive request for proposals for the development of property
25 that includes at least 100 residential units and at least 25 percent
26 of the total residential units are restricted to lower income
27 households, as defined in Section 50079.5 of the Health and Safety
28 Code, with an affordable housing cost or an affordable rent, as
29 defined in Sections 50052.5 and 50053 of the Health and Safety
30 Code, for a minimum of 55 years for rental housing and 45 years
31 for ownership housing, the provisions of this article as it existed
32 on December 31, 2019, shall apply, without regard to the changes
33 made to this article by Chapter 664 of the Statutes of 2019, and
34 all subsequent amendments to this article, to the disposition of the
35 property to the party that participated in the competitive request
36 for proposals process, or the party's successors or assigns, provided
37 a disposition and development agreement for the property is entered
38 into not later than December 31, 2024. A joint development
39 involving multiple parcels shall meet the requirements of this
40 paragraph so long as there was a single competitive request for

1 proposals process and the joint development otherwise meets all
2 the requirements listed in this paragraph. A “disposition and
3 development agreement” means an agreement between the
4 developer and the local agency that binds the developer to construct
5 a specific development and the local agency to dispose of the
6 property if permits and other entitlements for the project are
7 obtained. This paragraph shall not apply to land held in the
8 Community Redevelopment Property Trust Fund pursuant to
9 Section 34191.4 of the Health and Safety Code, or that has been
10 designated in a long-range property management plan pursuant to
11 Section 34191.5 of the Health and Safety Code. If the property is
12 not disposed of pursuant to a qualifying disposition and
13 development agreement before March 31, 2026, or if no disposition
14 and development agreement is entered into before December 31,
15 2024, then future negotiations for and disposition of the property
16 shall be subject to the provisions of this article.

17 (4) The dates specified in paragraphs (1) to (3), inclusive, by
18 which the disposition of property must be completed shall be
19 extended if the disposition of property, the local agency’s right or
20 ability to dispose of the property, or a development project for
21 which the property is proposed to be transferred, is the subject of
22 judicial challenge, by petition for writ of mandate, complaint for
23 declaratory relief or otherwise, to the date that is six months
24 following the final conclusion of such litigation.

25 (b) (1) With respect to land held in the Community
26 Redevelopment Property Trust Fund pursuant to Section 34191.4
27 of the Health and Safety Code, or that has been designated in a
28 long-range property management plan pursuant to Section 34191.5
29 of the Health and Safety Code, either for sale or retained for future
30 development, this article as it existed on December 31, 2019,
31 without regard to the changes made to this article by Chapter 664
32 of the Statutes of 2019, and all subsequent amendments to this
33 article, which take effect on January 1, 2020, shall apply to the
34 disposition of that property if both of the following apply:

35 (A) An exclusive negotiating agreement or legally binding
36 agreement for disposition is entered into not later than December
37 31, 2020.

38 (B) The disposition is completed not later than either of the
39 following dates, as applicable:

1 (i) December 31, 2022, unless the conditions described in clause
2 (ii) or (iii) apply.

3 (ii) December 31, 2024, if the property is located in a charter
4 city with a population of over 2,000,000 persons and a local agency
5 has an option agreement duly authorized by the local agency's
6 governing body to purchase the property from the former
7 redevelopment agency.

8 (iii) December 31, 2025, if the property is located in a city or
9 county which entered into a legally binding agreement to dispose
10 of the property prior to September 30, 2019, and the transferee has
11 exercised one or more unilateral extension options which were a
12 component of the original agreement.

13 (2) If land described in paragraph (1) is the subject of litigation,
14 including, but not limited to, litigation challenging the disposition
15 of such property, the right or ability to dispose of the property, or
16 a development project for which such property is proposed to be
17 transferred, the dates specified in paragraph (1) shall be extended
18 to the date that is six months following the final conclusion of such
19 litigation.

20 (c) Nothing in this section shall authorize or excuse any violation
21 of the provisions of this article as it existed on December 31, 2019,
22 in the disposition of any property to which such provisions apply
23 pursuant to subdivision (a) or (b).

24 SEC. 10. If the Commission on State Mandates determines
25 that this act contains costs mandated by the state, reimbursement
26 to local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.



CITY OF HUNTINGTON BEACH
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648-2702

TONY STRICKLAND
MAYOR

May 3, 2023

The Honorable Anna Caballero
State Capitol, Ste. 7620
Sacramento, CA 95814

Dear Senator Caballero:

The City of Huntington Beach is pleased to **SUPPORT** Senate Bill 747, which contains much needed clarifications and reforms to the Surplus Land Act (SLA) and reaffirms the role of existing Economic Opportunity Law that is used by local agencies to acquire and dispose of property to improve economic opportunities for local residents.

The implementation of the SLA, including recent guidelines by the Housing and Community Development Department, has created immense delays and difficulties for the City of Huntington Beach in dealing with the use of our properties to further housing and economic development goals in service of our residents. SB 747 addresses these concerns through an array of helpful changes and clarifications, provides for additional exceptions and definitions, and improves transparency and processes.

Additional clarification to reaffirm the use of Economic Opportunity Law as a post-redevelopment tool is greatly needed. The City of Huntington Beach appreciates the proposed reform and thanks you for your leadership in beginning to apply a sharper legislative focus on the application of the SLA. This will ensure that the administration of the law remains consistent with legislative intent and avoids unintended delays or conflicts with other laws and policy priorities the Legislature has enacted, including actions to support and further economic development.

For these reasons, the City of Huntington Beach is pleased to **support** SB 747. Please feel free to contact me at (714) 536-5553, or Tony.Strickland@surfcity-hb.org, whenever needed.

Sincerely,

Tony Strickland
Mayor

Cc: Members, Senate Committee on Governance and Finance
Gurbax Sahota, Chief Executive Officer, CALED