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# SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

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## ***CALIFORNIA ENVIRONMENTAL QUALITY ACT: SURPLUS LAND DISPOSAL REQUIREMENTS: EXEMPTION***

*Excludes from the Surplus Land Act dispositions for military base reuse projects and streamlines environmental review for the Concord Community Reuse Project.*

### **Background**

***Surplus Land Act.*** Public agencies are major landlords in some communities, owning significant pieces of real estate. When properties become surplus to an agency's needs, public officials want to sell the land to recoup their investments. The Surplus Land Act (SLA) spells out the steps local agencies must follow when they want to dispose of land. It requires local governments to give a "first right of refusal" to other governments and nonprofit housing developers, and to negotiate in good faith with them to try to come to agreement. This means that local agencies must open their properties up to affordable housing developers first, even if they have a different purpose in mind for the property.

Before local officials can dispose of property, they must declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land." Land that is being used for an agency's use is not subject to the SLA. "Agency's use" includes land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency or will be disposed of to support agency work or operations.

The SLA designates a lengthy list of types of land that are "exempt surplus land," such as land that is being transferred to another public entity or an Indian Tribe, or land that is subject to a valid legal restriction that prohibits residential uses on the property. Statute provides that the entirety of the SLA does not apply to disposals of exempt surplus land. All other surplus land must follow the procedures laid out in the SLA before a local agency can sell it.

***SLA process.*** Before agencies can enter into negotiations to dispose of surplus land, they must send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available for the following purposes:

- Low- and moderate-income housing;
- Park and recreation, and open space;
- School facilities; or
- Infill opportunity zones or transit village plans.

Housing sponsors can notify the Department of Housing and Community Development (HCD) if they are interested in acquiring surplus land to develop affordable housing. HCD maintains a list of notices of availability on its website.

If another agency or housing sponsor wants to buy or lease the surplus land for one of these purposes, it must tell the disposing agency within 60 days. The agency and the housing sponsor then have an additional 90 days to negotiate a mutually satisfactory price and terms in good faith. If they cannot agree, the agency that owns the surplus land can sell the land on the private market. If surplus land is not sold to an affordable housing developer, but housing is developed on it later, 15 percent of the units must be sold or rented at an affordable cost to lower income households.

Local agencies that dispose of surplus land in violation of the SLA face penalties totaling 30 percent of the sales price, or fair market value of the sale or lease, of land disposed of in violation of the SLA for a first violation, and 50 percent for subsequent violations. These penalty revenues must be deposited in a local housing trust fund.

***Recent SLA revisions.*** Two bills chaptered in 2023, SB 747 (Caballero) and AB 480 (Ting), made significant changes to the SLA. Collectively, the bills attempted to strike a balance between ensuring comprehensive coverage of dispositions, while enacting exemptions and other changes that would streamline the process for local governments. Specifically, SB 747 and AB 480:

- Define “dispose” in the law to include leases of longer than 15 years that are entered into on or after January 1, 2024, but exclude leases of shorter than 15 years and leases where no development or demolition will occur;
- Apply penalties to leases that violate the SLA, but provide that penalties don’t apply to non-substantive violations of the SLA;
- Add numerous categories of exempt surplus land, such as properties of smaller than one-half acre, specified mixed-use developments and developments on larger sites that include affordability requirements, airport land, and others;
- Authorize disposal of certain categories of exempt surplus land without a public hearing, as long as specified notice is provided;
- Establish additional types of activities that explicitly qualify as “agency’s use”; and
- Extend provisions that allow projects with an exclusive negotiating agreement in place to follow a previous version of the SLA.

HCD’s guidelines for the SLA adopted after the chaptering of these bills require agencies proposing to use an exemption to file a notice of exemption with HCD that HCD reviews within 30 days of receipt.

***Military base reuse.*** The end of the Cold War forced the Department of Defense to adjust to new geopolitical realities. Through several rounds of the Base Realignment and Closure (BRAC) process, federal officials closed or realigned nearly three dozen military bases in California. Upon their closure, the Department of Defense along with local agencies designated local reuse authorities to guide the future use of the base. In one case, an entirely new state entity was created to guide the development of Ford Ord. In other cases, like the Mare Island Naval Shipyard in the City of Vallejo, the city took responsibility for repurposing the base. These former bases have become homes to higher education institutions like California State

University, Monterey Bay, and others serve important affordable housing purposes, like the Bay Public Works Center on Alameda Island.

These reuse projects are often complex. They involve dispositions phased over several years or decades that transfer land from the federal government to the local reuse authority, and then often to a master developer. The sites often require cleanup of environmental hazards and significant investment in infrastructure to support future development.

The recent SLA changes included an exemption for the disposition of properties associated with the former Alameda Naval Air Station and the Fleet Industrial Supply Center, which was formally closed in 1998. To qualify for the exemption, a disposition must meet the following conditions:

- At least 25% of the residential units developed shall be restricted to lower income households, as specified;
- Before disposition of the surplus land, the agency adopts written findings that the land is exempt surplus land;
- Before disposition of the surplus land, the recipient has negotiated a project labor agreement, as specified, and any succeeding ordinance, resolution, or policy, regardless of the length of the agreement between the local agency and the recipient; and
- The local agency includes in their Annual Progress Report to HCD the status of development of residential units on the former military base, including the total number of residential units that have been permitted and what percentage of those residential units are restricted for lower income households; and
- Other criteria related to the size of the disposition are met.

Violations of this exemption are specifically subject to the penalties in the SLA and, as an exemption, must go through the process of HCD review for exemptions.

***Concord Community Reuse Project.*** Located in the City of Concord, the Concord Naval Weapons Station (CNWS) was established by the Navy in the 1940s during World War II. Comprising 5,028 acres, the Inland Area of the base was deactivated in 1997, and in 2006, the Department of Defense selected the City of Concord to act as the local reuse authority for CNWS in 2006. In 2007, the Navy declared the property surplus to begin the process of transfer to the City of Concord. Closure of CNWS spurred the City and community to contemplate the reuse of the property. In 2012, the City adopted the Concord Reuse Project Area Plan, with the vision of a transit-oriented, mixed use community, termed the Concord Community Reuse Project. The adopted Area Plan provides for over 12,000 housing units, 25% of which must be affordable for low-income households, and over 6 million square feet of commercial and employment-generating space of all types.

On March 19, 2024, the City of Concord approved a term sheet with master developer BCUS Acquisitions LLC (Brookfield) for development of the CNWS site. The term sheet sets forth the parameters for negotiating a disposition and development agreement (DDA) and a development agreement between the City and Brookfield governing the transfer of property to Brookfield and the land use approvals for the site. The term sheet requires a variety of public benefits, including:

- *Affordable housing.* The project sets a 25% affordable housing goal. Brookfield will provide infrastructure and building pads valued at an estimated \$146 million to accommodate 3,068 low-income units. Additionally, Brookfield will contribute \$50 million directly toward affordable housing projects;
- *Community facilities.* Brookfield will donate land for a Veterans Hall (4 acres), homeless housing (4 acres), a Food Bank expansion (10 acres), and future schools (55 acres). Brookfield will also provide \$65 million for a Campus District Community Center/Library and up to \$10 million for fire stations;
- *Parks and open space.* Brookfield will donate 886 acres of developed parks and trails, contribute \$100 million for a Tournament Sports Park, and fund the phased restoration of the Mount Diablo Creek corridor.

The term sheet also provides for a Project Labor Agreement (PLA) with the Contra Costa Building and Construction Trades and the Nor Cal Carpenters Union and includes provisions prioritizing local hiring and business opportunities.

The author wants to address barriers to the successful completion of the Concord Community Reuse Project.

### **Proposed Law**

Senate Bill 1145 provides that the SLA does not apply to the disposal of all or any portion of land that was or will be conveyed by the federal government to a local reuse authority in accordance with the federal laws, or their successors, governing military base closure and realignment. The bill requires any action challenging the applicability of this exclusion to be brought within 90 days of the local reuse authority's approval of a DDA, purchase and sale agreement, or similar agreement regarding the disposition of all or any portion of the land by the local reuse authority, and not at the time of each subsequent conveyance or phased conveyance of the land.

SB 1145 also provides that specified environmental review documents satisfy the requirements of the California Environmental Quality Act (CEQA) for any project within the portion of the Concord Reuse Project Area Plan, as provided, that satisfies specified conditions, including that the project:

- Does not involve an expansion of the geographic boundaries beyond the area plan;
- Does not increase the total number of residential units within the plan area by more than 25% of the units identified in the area plan as of 2012;
- Does not increase the square footage of commercial space within the plan area by more than 25% of the commercial space identified in the area plan as of 2012;
- Will not result in any reduction of the aggregate 25% affordability requirement for the land covered by the area plan;
- Has negotiated a PLA for the project; and
- Is subject to legally binding agreements with local homeless service providers.

The bill also provides that a subsequent environmental impact review prepared for a project that otherwise meets the requirements for the plan area, affordability, a PLA, and agreements with homeless service providers is not required to include any discussion of alternatives to the project or the growth-inducing impacts of the project.

SB 1145 includes a severability clause pertaining to the CEQA changes, defines its terms and includes findings and declarations to support its purposes.

### Comments

1. Purpose of the bill. According to the author, “SB 1145 provides specified streamlining procedures under the California Environmental Quality Act (CEQA) and the federal base closure and realignment disposition process for qualifying projects within the area of the Concord Reuse Project Area Plan (Area Plan), supporting implementation of a long-planned, transit-oriented reuse of a portion of the former Concord Naval Weapons Station (CNWS) with housing, job-creating facilities, open space, and environmental improvements.

“In 2005, the United States Navy identified approximately 4,972 acres of the former Inland Area of the CNWS as surplus to the needs of the federal government, in accordance with the Defense Base Closure and Realignment Act of 1990. The City of Concord (City) is the Local Reuse Authority (LRA) for the base closure process. The LRA has executed legally binding agreements approved by the U.S. Department of Housing and Urban Development to provide four sites totaling 16 acres for permanently supportive housing and 10 acres for local Food Bank expansion within the former CNWS.

“In 2010, after a multi-year process with substantial public input, the City certified an Environmental Impact Report (EIR) (State Clearinghouse # 2007052094) under CEQA and adopted the CNWS Reuse Plan. In 2012, the City adopted an Addendum to the EIR and approved the Area Plan, incorporating the Reuse Plan’s policies and goals into the City’s General Plan and establishing a land use plan that would transform former naval weapons storage facilities into a mixed-use, transit-oriented, and sustainable community. The Navy completed National Environmental Policy Act (NEPA) environmental review of the disposal and reuse based on the Area Plan and issued a Record of Decision in 2017.

“The Area Plan provides for the development of more than 10,000 housing units and requires 25 percent of units to be affordable to lower income households. The Area Plan also provides for up to approximately 6.1 million square feet of commercial space, community facilities such as school sites, neighborhood parks, and sports facilities, as well as extensive open space.

“Although redevelopment of the CNWS has undergone nearly two decades of land use planning and substantial environmental review under both CEQA and NEPA, as well as the federal base closure and realignment disposition process, implementation of the Area Plan will require multiple future discretionary development approvals over many years. Without procedural streamlining, the risk of serial CEQA litigation and administrative record delays will create uncertainty that undermines the timely delivery of housing, jobs, infrastructure, and planned environmental and economic benefits to the City of Concord and the East Bay region.”

2. Watchmen. Until 2020, the SLA was largely toothless. AB 1486 (Ting, 2019) rewrote the SLA to include many of the provisions in the SLA today. The 2019 amendments to the SLA were intended to increase the supply of housing affordable to lower-income Californians by giving affordable housing developers the first right of refusal on surplus local properties and by imposing affordability requirements on surplus land that later had market-rate housing built on it. The amendments also established an oversight role for HCD and penalties to ensure that local agencies were following the law.

Two provisions of SB 1145 could limit the ability of HCD and others to ensure that the project adheres to the affordability requirements over the lifetime of the project:

- First, SB 1145 proposes to exclude from the SLA military base land that was transferred to a local agency through the BRAC process. Because HCD has no authority to review lands that are excluded from the SLA, the bill prevents HCD from requiring review of dispositions as they occur.
- Second, the bill provides that lawsuits challenging whether a disposition was excluded from the SLA to be filed within 90 days of the local agency approving a DDA. This means that it would be more difficult to challenge individual dispositions of land for military base reuse if they didn't follow the requirements of the law.

As a result, some affordable housing advocates are concerned that under SB 1145 there would be no opportunity to apply the SLA to military base reuse projects to achieve the affordable housing goals of that law. However, the City of Concord and others are concerned that in the case of the Concord Community Reuse Project, which provides for affordability commensurate with the requirements of the SLA along with other public benefits, the SLA jeopardizes the ability of the project to be completed, resulting in the loss of those benefits. Specifically, because the CNWS site will be transferred piecemeal from the Navy to the City, and then to the master developer, each transfer of property introduces the possibility that the SLA will require that property to be sold to an affordable housing developer, instead of to the intended master developer that is coordinating development of the larger site and investing in the costly infrastructure for the project.

To ensure accountability without subjecting the Concord Community Reuse Project to requirements that could render the project infeasible, the Committee may wish to consider amending SB 1145 to:

- Specify that the exclusion only applies to land that is a part of a reuse project where affordability and labor standards are met; and
- Additional oversight mechanisms, such as to require regular reporting to HCD and the Legislature on the progress of affordable development at the site.

3. Related legislation. The Legislature is considering several measures to amend the SLA, including:

- SB 1317 (Arreguin), which exempts from the SLA land owned by a local agency that is located within both a business improvement district and a disadvantaged community. SB 1317 is pending in the Senate Local Government Committee.
- AB 1895 (Hadwick), which exempts from the SLA land that is unsuitable for housing development due to the presence of one or more specified characteristics. AB 1895 is pending in the Assembly Local Government Committee;
- AB 2139 (Garcia), which exempts from the SLA land owned by the City of Ontario that is located within the sports and entertainment district commonly known as Ontario Sports Empire, as specified. AB 2139 is pending in the Assembly Local Government Committee;
- AB 2498 (Chen), which provides that option agreements constitute a valid legal restriction for the purpose of the existing SLA exemption for such restrictions. AB 2498 is pending in the Assembly Local Government Committee;

- AB 2512 (Valencia), which requires, if an exemption is granted to the City of Anaheim for the disposition of surplus land involving the sale or lease of Angel Stadium to the Los Angeles Angels, that any materials refer to that team as the Anaheim Angels. AB 2512 is pending in the Assembly Local Government Committee;
- AB 2525 (Ward), which exempts from the SLA lands that comprise Mission Bay Park, as defined and located within the City of San Diego. AB 2525 is pending in the Assembly Local Government Committee; and

In addition, SB 719 (Min, 2021) would have exempted certain land comprising the former Tustin Marine Corps Air Station to be exempt surplus land if specified requirements are met. SB 719 was never heard in the Assembly Local Government Committee.

4. Special legislation. The California Constitution prohibits special legislation when a general law can apply (Article IV, §16). SB 1145 finds and declares that legislation that applies only to the City of Concord is needed due to the unique circumstances regarding the Concord Reuse Project Area Plan.

5. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because SB 1145 imposes new duties on local officials, Legislative Counsel says that it imposes a new state mandate. SB 1145 disclaims the state's responsibility for providing reimbursement by citing local governments' authority to charge for the costs of implementing the bill's provisions.

6. Coming and going. The Senate Rules Committee has ordered a double referral SB 1145: first to the Committee on Local Government to hear issues related to the SLA, and then to the Committee on Environmental Quality.

#### **Support and Opposition** (4/10/2026)

Support: City of Concord  
 Contra Costa Building and Construction Trades Council  
 Contra Costa County  
 District Council of Iron Workers of the State of California and Vicinity

Opposition: East Bay Housing Organizations  
 Nonprofit Housing Association of Northern California  
 Public Interest Law Project  
 San Diego Housing Federation  
 Western Electrical Contractors Association

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