

SENATE THIRD READING  
SB 328 (Grayson)  
As Amended August 26, 2026  
2/3 vote. Urgency

## SUMMARY

Creates a new category of exempt surplus land under the Surplus Land Act (SLA) for the Concord Naval Weapons Station (CNWS) and limits review under the California Environmental Quality Act (CEQA) for projects within the CNWS, as specified.

### Major Provisions

- 1) Creates a new category of surplus land under the SLA for land that is a former military base that was conveyed by the federal government to a local agency or local reuse authority (local agency), and that is all or any portion of the CNWS, provided that all of the following requirements are met:
  - a) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 10,000 residential units upon completion of development or redevelopment of the former military base.
  - b) Before the disposition of the land, the local agency or local reuse authority (local agency) has entered in to a disposition and development agreement (DDA) that stipulates that at least 25% of the aggregate residential units permitted to be developed will be restricted to lower income households, as defined, with an affordable housing cost or affordable rent, as defined, for a minimum of 55 years for rental housing and 45 years for owner-occupied housing.
  - c) Requires, at least 30 days prior to disposing of the land, the local agency to provide the Department of Housing Community Development (HCD) with a written notification of its findings that the land is exempt surplus land, pursuant to the bill, and a copy of the disposition and development agreement to be executed.
  - d) Before the disposition of the land, the recipient has negotiated a project labor agreement consistent with the term sheet for the DDA approved by the local agency or local reuse authority on May 26, 2026, and any succeeding ordinance, resolution, or policy regardless of the length of the project labor agreement.
- 2) Provides that land subject to this bill shall be deemed to be disposed at the time the local agency or local reuse authority approves the DDA and not at the time of each subsequent conveyance or phased conveyance of the land undertaken pursuant to the DDA.
- 3) Requires an action challenging the disposition of land pursuant to the bill be brought within 180 days after the local agency notifies HCD of the local agency's approval of the DDA.
- 4) Provides that the disposition of land pursuant to this bill is not subject to challenge upon any subsequent conveyance, phased conveyance, lease, financing transaction, or implementing action undertake pursuant to the DDA, except to enforce the affordability requirements in 1) above. Provides that the affordability requirements of 1) apply to the project as a whole and

an individual phase shall not be required to independently satisfy those requirements, provided that the project remains subject to, and ultimately satisfies those requirements.

- 5) Requires that the affordability requirement of 1) be contained in a covenant or restriction recorded against the land identified to be restricted to lower income households at the time that such land is conveyed that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.
- 6) Requires the local agency to include in its annual progress report to HCD, under Housing Element Law, 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 persons and families of low or moderate income, or lower income households, as specified.
- 7) Provides that a violation of 1), including, but not limited to, the affordability requirements, is subject to the penalties in the SLA, as specified. Specifies that those penalties are in addition to any remedy a court may order for violation of 2) of the DDA. Further specifies that an action alleging a violation of 1) based on an approval or other action or inaction of the local agency or recipient occurring after the disposition shall not be subject to 180 day limitation in 3).
- 8) Prohibits the local agency from amending, in a manner that would modify the affordability requirements of 1), a disposition and development agreement that formed the basis for the application of this bill to a disposition of land by a local agency or local reuse authority.
- 9) Makes additional technical changes to the SLA.
- 10) Defines, for purposes of CEQA, the following terms:
  - a) "Addendum" means the Final Environmental Impact Report Addendum and Initial Study of Environmental Significance for the Concord Reuse Project Area Plan approved by the city in January 2012.
  - b) "City" means the City of Concord.
  - c) "CNWS" means the Concord Naval Weapons Station.
  - d) "Concord Community Reuse Project" means the Concord Community Reuse Project, approved by the city on February 23, 2010, that established the planning process for civilian use of the former CNWS.
  - e) "CRP area plan" means the area plan for the Concord Reuse Project reviewed in the Addendum and adopted and incorporated into the City's 2030 general plan in 2012, that covers the inland portion of the CNWS, the North Concord/Martinez Bay Area Rapid Transit Station, and the Diablo Creek Golf Course.
  - f) "CRP area plan diagram" means Figure 3-3 of the CRP area plan.

- g) "CRP area plan maximum planning area-wide total" means the total aggregate development in the plan area of approximately 12,272 housing units and 6,115,718 square feet of commercial floor space as set forth in the CRP area plan.
  - h) "CRP FEIR" means the Final Environmental Impact Report for the Concord Community Reuse Project Plan (SCH No 2007052094) certified by the City in February 2010.
  - i) "Land use types" means the land uses listed in CRP area plan 3-4, District Standards, in the rows titled "Mix of Uses", without regard to the labels "Required Use" and "Mix of Appropriate Uses."
  - j) "Plan area" means the approximately 5,000-acre inland portion of the CNWS included within the boundaries of the CRP area plan.
- 11) Requires the 2010 CRP FEIR and Addendum to be conclusively presumed to satisfy the requirements of CEQA for any project within the plan area that meets the following requirements:
- a) The project has land use types that are consistent with the CRP area plan land use types and locations for those land use types that are consistent with the CRP area plan diagram:
  - b) The project does not cause the aggregate development in the plan area to exceed the CRP area plan maximum planning area-wide total.
- 12) Requires CEQA review of a project that contains land use types that are consistent with the CRP area plan land use types in locations that are not consistent with the CRP area plan diagram, provided that:
- a) The provisions of 11) still apply to components of the project and environmental impacts that are unaffected by the changed location of land use types.
  - b) Any review is limited to review of the location of land use types that are not consistent with the CRP area plan diagram.
  - c) Any review, if review is undertaken, is limited to consideration of major changes and excludes consideration of changed circumstances and new information otherwise required by CEQA
- 13) Requires, in any action or proceeding challenging the application of 11) and 12) above to any project within the plan area or any require subsequent or supplemental environmental review for any project within the plan area, the following:
- a) Requires the project applicant to pay any additional costs incurred by the courts in hearing and deciding any case subject to this bill, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner provided in the California Rules of Court adopted by the Judicial Council.
  - b) Requires the project application to pay the costs of preparing the record of proceedings for the project concurrent with the review and consideration of the project pursuant to this division, in a form and manner specified by the lead agency for the project.

- c) Requires, within five days of filing the specified notice, the lead agency to certify the record of proceedings for the approval or determine and to provide an electronic copy of the record of proceedings to a party that has submitted a written request for a copy. Allows the lead agency to charge and collect a reasonable fee for the electronic copy from a party from a party requesting a copy of the record of proceedings, which shall not exceed the reasonable costs of producing the copy.
- 14) Requires, within 10 calendar days after being served with complaint or a petition for writ of mandate, the lead agency to lodge a copy of the certified record of proceedings with the superior court.
- 15) Requires that any dispute over the content of the record of proceedings to be resolved by the superior court. Provides that, unless the superior court directs otherwise, a party disputing the content of the record of proceedings shall file a motion to augment the record of proceedings at the time it files its initial brief.
- 16) Provides that the contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.
- 17) Requires Judicial Council to adopt rules of court on or before July 1, 2027 that require any action or proceeding brought to attack, review, set aside, void, or annul the approval of any project within the plan area or any subsequent or supplemental environmental impact review for any project within the plan area pursuant to 11) and 12), including any potential appeals to the court of appeal or the California Supreme Court to resolve lawsuits within 270 days, to the extent feasible.
- 18) Includes, for purposes of CEQA, a severability clause.
- 19) Finds and declares that special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances concerning the City of Concord.
- 20) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
- 21) Contains an urgency clause.

## COMMENTS

- 1) *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 dispose, which means to sell or lease for fifteen years or longer, the land to recoup their investments. The 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 public agencies, nonprofit housing developers, schools, and parks and recreation departments. After notifying these groups that the land is available, the disposing agency must negotiate in good faith with these interested parties to try to come to agreement for 90 days before the local agency can dispose of the surplus land.

- 2) *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:

- a) At least 25% of the residential units developed shall be restricted to lower income households, as specified.
  - b) Before disposition of the surplus land, the agency adopts written findings that the land is exempt surplus land.
  - c) 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.
  - d) 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.
  - e) Other criteria related to the size of the disposition are met.
  - f) 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.
- 3) *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:

- a) *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 up to 3,068 low-income units. Additionally, Brookfield will contribute \$50 million directly toward affordable housing projects.
- b) *Community facilities.* Brookfield will donate land for a Veterans Hall (four acres), homeless housing (four acres), a Food Bank expansion (ten 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.
- c) *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.

- 4) *The A, B, C's of CEQA.* CEQA is designed to (a) make government agencies and the public aware of the environmental impacts of a proposed project, (b) ensure the public can take part in the review process, and (c) identify and implement measures to mitigate or eliminate any negative impact the project may have on the environment. CEQA is enforced by civil lawsuits that can challenge any project's environmental review. Nonprofits, private individuals, public agencies, advocacy groups, and other organizations can all file lawsuits under CEQA.
- 5) *Environmental Review Under CEQA.* Under CEQA, projects (unless they have a specific exemption) must undergo environmental analysis. This process starts with an initial study which determines what level of further environmental review is needed for a given project. If a project has no significant effects on the environment, or if those effects can be fully mitigated, the project can move forward with a negative declaration (ND) or mitigated negative declaration (MND). If the initial study finds that the project has potential significant effects on the environment, then a full Environmental Impact Report (EIR) is required. An EIR provides a more thorough environmental review of a proposed project, analyzing the significant direct and indirect environmental impacts of a proposed project on water quality, transportation, air quality and greenhouse gas emissions, terrestrial and aquatic biological resources, surface and subsurface hydrology, land use and agricultural resources, aesthetics, geology and soils, recreation, public services and utilities such as water supply and wastewater disposal, and cultural resources, among other factors.

The EIR also includes proposed mitigation measures for any significant effects that it identifies. It also requires a consideration of alternatives to the proposed project, and a consideration of growth-inducing impacts. These elements may be especially important for contextual planning of projects and plans:

- a) Alternatives to the project include a 'no project' alternative, that considers the impacts if the project wasn't built at all, and a range of reasonable alternatives to the project that achieve the same outcome in different ways.
  - b) Growth inducing impacts. Typically, the growth inducing potential of a project would be considered significant if it fosters growth or a population concentration above what is assumed in local and regional land use plans or in projections made by regional planning. Significant growth impacts could also occur if the project provides infrastructure or service capacity to accommodate growth levels beyond those permitted by local plans and/or policies
- 6) *NEPA and CEQA*. When projects have both a state and federal decision-making component, they are subject to both CEQA and NEPA (CEQA provides environmental review for projects by California public agencies, while NEPA ensures that federal agencies consider the environmental impacts of decisions they make). CEQA and NEPA can act in concert to ensure that there is robust environmental review baked into decision making. CEQA and NEPA follow different frameworks that make them distinct. Included among these differences is that NEPA does not require mitigation measures for significant impacts identified in environmental analysis, and the threshold for standing under CEQA is very low (and therefore more accessible to residents), compared to the standing required to bring a lawsuit under NEPA.
- 7) *Environmental Review Documents for CNWS*. The Concord Community Reuse Project and the steps leading up to its planning have undergone environmental review under CEQA. This includes:
- a) An EIR under CEQA for the Concord Community Reuse Project Plan prepared by the city (State Clearinghouse No. 2007052094) certified in February 2010;
  - b) An EIS under NEPA for the Disposal and Reuse of the Former Naval Weapons Station Seal Beach, Detachment Concord, prepared by the U.S. Department of the Navy issued in August 2017;
  - c) An addendum to the EIR for the Concord Community Reuse Project Plan approved in January 2012; and
  - d) A Concord Reuse Project Area Plan added to Concord's General Plan and approved in January 2012.

#### **According to the Author**

SB 328 seeks to provide specified streamlining procedures under the [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 [CNWS] with housing, job-creating facilities,

open space, and environmental improvements. The measure also creates an exemption within the [SLA] for land to be conveyed by the City of Concord for this project.

"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.

The Navy intends to convey through an Economic Development Conveyance approximately 2,350 acres of the former CNWS to the City as the designated LRA for disposition to developers for redevelopment for the purpose of short- and long-term job generation.

"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.

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"Below is a listing of the community benefits associated with the Reuse Project at the former Concord Naval Weapons Station.

- 1) Project Labor Agreement (PLA) with the Contra Costa Building and Construction Trades, the Nor Cal Carpenters Union and local hiring priority, training programs, and opportunities for local businesses
- 2) 25% of housing designated as Affordable
- 3) 886 acres of dedicated Parks, Recreations and Trails space
- 4) 16 acres of housing for the unhoused
- 5) 10 acres for future Food Bank expansion
- 6) 4 acres for a Veterans Hall

- 7) Provision of an interim Delta-DeAnza trail connection
- 8) Restoration of the Mount Diablo Creek Corridor and trail creation over all phases
- 9) 55 acres for school sites
- 10) \$2.2 Billion in contributions and/or construction of public infrastructure including:
  - a) \$43 Million - Recycled Water System
  - b) \$208 Million - Habitat & Wetland Mitigation, Mt. Diablo Creek Restoration, Parks, and Open Space
  - c) \$146 - Million allocable improvements for 3,000+ units of Affordable Housing
  - d) \$41 Million – offsite environmental mitigation
  - e) \$119 Million - New School Construction
  - f) \$100 Million - Tournament Sports Park/City-Wide Park
  - g) \$65 Million - Library and civic center
  - h) \$10 Million - Fire Stations

"The measure also contains commitments to provide affordable housing and the construction of 10,000 housing units. It will facilitate the development of this much needed housing and community in the East Bay.

"SB 328 does not exempt qualifying CNWS projects from CEQA—it leverages CEQA review already completed for CNWS. Additionally, the measure has been drafted within the structure of the SLA in order to provide accountability for the commitments made to build housing as well as affordable housing."

### **Arguments in Support**

Bay Area Council writes in support, "The Concord Community Reuse Project will provide over 10,000 housing units with 25% of housing designated as affordable to lower income households and 16 acres of housing for the unhoused. It contemplates significant redevelopment opportunities such as 2,500 acres of open space, an interim Delta DeAnza trail connection, and restoration of the Mount Diablo Creek Corridor and trail creation over all phases. The project also includes approximately \$2.2 billion in public benefits, funding major infrastructure, environmental restoration, affordable housing support, and community amenities. These investments support both on-site development and broader citywide needs, including schools, parks, civic facilities, and public safety infrastructure.

"After years of planning, environmental review, and binding commitments to deliver housing, jobs, and community benefits, the City has laid the groundwork to transform the former Naval Weapons Station into a vibrant, mixed-use community. The opportunity now is to realize those commitments and deliver on the vision that has already been extensively vetted and approved. Streamlining initiatives will help provide certainty for the project and timely delivery of affordable housing, jobs, and economic revitalization for the East Bay region."

### **Arguments in Opposition**

The East Bay Housing Organization, Public Interest Law Project, Non-Profit Housing Association of Northern California (NPH), East Bay Housing Organizations, San Diego Housing Federation, and Public Advocates write in opposition, "While SB 328 is an improvement over earlier proposals, we remain concerned that without further amendments, the bill does not require the promised delivery of any new affordable units in this important reuse project and sets a bad precedent for future base conversions.

"Our organizations span the state, including Contra Costa County where the project is located, and have a shared mission of increasing the supply of affordable housing for lower-income households. Members of our coalition have been actively engaged at the local level in the community process around the reuse of the Weapons Station, and we too want to see this important reuse project proceed. As part of that reuse process, the SLA has always been an important backstop to ensuring the delivery of affordable housing on the base. Any exemption to the SLA's procedural requirements must still ensure there is an enforceable commitment to delivering these critically needed units.

"Our concerns include the following issues:

- 1) "Unlike previous exemptions, this bill does not guarantee that any affordable housing be built. In fact, it doesn't require any housing to be built at all.
- 2) "The trigger that starts the limited period during which the disposition may be challenged is both vague and non-transparent
- 3) "The bill's remedies for violation of the SLA are unenforceable.
- 4) "Unlike all other provisions of the SLA, the bill does not require a minimum affordability term.
- 5) "Because the bill creates a new definition of 'disposition,' it creates significant ambiguity about how any penalties for non-compliance would be calculated."

### **FISCAL COMMENTS**

Unknown.

### **VOTES**

#### **SENATE FLOOR: 38-0-2**

**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Limón, Reyes

#### **ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 7-0-0**

**YES:** Connolly, Ellis, Bauer-Kahan, Castillo, Lee, McKinnor, Papan

**ASM REVENUE AND TAXATION: 7-0-0**

**YES:** Gipson, Ta, Bains, Carrillo, DeMaio, McKinnor, Quirk-Silva

**ASM APPROPRIATIONS: 11-0-4**

**YES:** Wicks, Arambula, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

**ABS, ABST OR NV:** Hoover, Dixon, Ta, Tangipa

**ASM NATURAL RESOURCES: 14-0-0**

**YES:** Bryan, Ellis, Alanis, Connolly, Garcia, Haney, Hoover, Kalra, Macedo, Muratsuchi, Pellerin, Schultz, Wicks, Zbur

**ASM LOCAL GOVERNMENT: 8-0-2**

**YES:** Carrillo, Ta, Pacheco, Ransom, Blanca Rubio, Stefani, Ward, Wilson

**ABS, ABST OR NV:** Johnson, Ramos

**UPDATED**

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