Office of Senate Floor Analyses
(916) 651-4171

UNFINISHED BUSINESS

Bill No: SB 328
Author: Grayson (D), et al.
Amended: 8/26/26
Vote: 27- Urgency

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 8-0, 4/2/25
AYES: Blakespear, Valladares, Dahle, Gonzalez, Hurtado, Menjivar, Padilla, Pérez

SENATE REVENUE AND TAXATION COMMITTEE: 5-0, 4/23/25
AYES: McNerney, Valladares, Ashby, Grayson, Umberg

SENATE APPROPRIATIONS COMMITTEE: 5-0, 5/23/25
AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab
NO VOTE RECORDED: Seyarto, Dahle

SENATE FLOOR: 38-0, 5/29/25
AYES: 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
NO VOTE RECORDED: Limón, Reyes

ASSEMBLY FLOOR: 74-0, 8/30/26 - See last page for vote

SUBJECT: California Environmental Quality Act: exempt surplus land

SOURCE: Author

DIGEST: This bill exempts from the Surplus Land Act (SLA) and streamlines environmental review for the Concord Community Reuse Project at the Concord Naval Weapons Station.

Assembly Amendments deleted the contents of the bill and inserted the current provisions.

ANALYSIS:

Existing law:

1) Establishes procedures for the disposal of publicly-owned land that is surplus to the needs of local agencies, under the SLA. The SLA:

   a) Requires local officials that want to dispose of public property to 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."

   b) Provides that "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, and excludes land for agency's use from the SLA.

   c) Requires local agencies to follow the procedures laid out in the SLA before surplus land can be sold, including, but not limited, to send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available.

   d) Negotiates in good faith for 90 days with housing sponsors that respond.

   e) Allows the local agency to dispose of the property on the private market if agreement is not reached with a housing sponsor.

   f) Requires that, if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.

   g) Requires local agencies to notify the Department of Housing and Community Development (HCD) prior to agreeing to terms for the disposition of surplus land.

   h) Imposes penalties of 30% of the disposition value of the land for a first violation and 50% of the disposition value for any subsequent violation for selling land in violation of the SLA.

   i) Establishes an enforcement process, which provides, among other things, that a local agency cannot be liable for a penalty if it is not notified by HCD that it is in violation of the act.

j) Allows private enforcement of the SLA by affordable housing developers, housing organizations, individuals that would have been eligible to apply for residency in affordable housing, a beneficially interested person or entity, and HCD.

k) Designates certain types of land as "exempt surplus land" and provides that the entirety of the SLA does not apply to exempt surplus land.

l) Allows HCD to develop guidelines to implement the penalty provisions of the SLA and provides that those guidelines are not subject to the Administrative Procedures Act.

2) Requires under the California Environmental Quality Act (CEQA) a lead agency to determine whether a project is exempt from CEQA, or if it must do an initial study to determine if a project will have significant effects on the environment. If a project has no effect on the environment or effects that can be mitigated, the lead agency prepares a negative declaration (ND) or mitigated ND (MND). If the project will have significant impacts, the lead agency prepares an environmental impact report (EIR) to evaluate and propose mitigation measures for any effects on the environment, including impacts or likely impacts to land, air, water, minerals, flora, fauna, ambient noise, and historic or aesthetic significance.

3) Specifies that when an EIR has been prepared for a project under CEQA, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report;

b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report; or

c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

4) Establishes and defines a Programmatic EIR (PEIR) in the CEQA guidelines as an EIR which may be prepared for a series of actions that can be characterized as one large project and are related either:

a) Geographically;

b) As logical parts in the chain of contemplated actions;

c) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or

d) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

5) Establishes tiered CEQA review. When an EIR has been certified for a General Plan or a Specific Plan, the CEQA analysis of later projects can be limited to those significant effects that "are peculiar to the parcel or to the project" and that either were not addressed as significant effects in the plan's EIR or that new information shows will be more significant than when the plan's EIR was certified.

6) Establishes the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 (AB 900, Buchanan, Chapter 354, Statutes of 2011), which established accelerated CEQA administrative and judicial review procedures for an "environmental leadership project." The Act was later extended and modified in 2021 to include infrastructure projects for clean energy, transportation, and water (SB 7, Atkins, Chapter 19, Statutes of 2021). Judicial streamlining requires that actions or proceedings brought against a project be resolved within 270 days, as feasible.

This bill:

1) Exempts from the SLA surplus land that is a former military base that was conveyed by the federal government to a local agency or local reuse authority, and that is all or any portion of the Concord Naval Weapons Station, 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 disposition of the land, the local agency or local reuse authority has entered into a disposition and development agreement (DDA) that stipulates that at least 25% of the units will be restricted to lower income households, subject to a deed restriction, as specified.

c) At least 30 days prior to disposing the land, the local agency or local reuse authority shall provide HCD with a written notification of its findings that the land is exempt surplus land and a copy of the DDA to be executed.

d) Before 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) Deems land exempted by this bill to be disposed at the time the local agency or local reuse authority approves DDA and not at the time of each subsequent conveyance or phased conveyance of the land undertaken pursuant to that agreement.

3) Requires an action challenging the disposition of land under this bill to be brought within 180 days after the local agency or local reuse authority notifies HCD that it has approved the DDA.

4) Prohibits challenges upon any subsequent conveyance or implementing action under the DDA, except to enforce the affordability requirements. The affordability requirements must be calculated for the project as a whole, not at each phase of the project.

5) Requires the local agency to include in its annual progress report to include 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.

6) Provides that disposing of land in violation of this exemption is subject to the penalties in existing law, in addition to any remedy a court may order. An action alleging a violation of the affordability requirements based an approval or other action or inaction of the local agency, local reuse authority, or recipient occurring after disposition is not subject to the 180-day limitation period that applies generally.

7) Prohibits the local agency or local reuse authority from amending the DDA in a manner that would modify the affordability requirements.

8) Modifies CEQA compliance for the Concord Community Reuse Project as follows:

a) Provides that the Final EIR for the Concord Community Reuse Project Plan and Addendum shall be conclusively presumed to satisfy the requirements of this division for any project within the plan area that is consistent with the Community Reuse Project area plan land use map and has the same land use types and locations for those land use types, as adopted in the CRP area plan reviewed in the Final EIR for the Concord Community Reuse Project Plan and Addendum.

b) Specifies that changing the location of a land use type from the area adopted in the Concord Community Reuse Project area plan reviewed in the Final EIR for the Concord Community Reuse Project Plan and Addendum shall be a project subject shall tier off existing environmental review in the city's general plan and shall not be required to conduct redundant analysis to what was adopted in the Concord Community Reuse Project area plan reviewed in the Final EIR for the Concord Community Reuse Project Plan and Addendum.

c) Requires that any proceeding brought against the approval of any project within the area plan, including any supplement environmental review pursuant to (b) above, shall be resolved, to the extent feasible, within 270 days.

9) Includes a severability clause and makes findings and declarations to support its purposes.

Background

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 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.

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 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.

Comments

1) *Purpose of the bill*. According to the author, "SB 328 seeks to provide 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. The measure also creates an exemption within the Surplus Lands Act (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.

"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."

2) *How much accountability is enough?* 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 attempt to balance the interests of oversight of the project to ensure it delivers affordable housing, but not impose requirements that could jeopardize the project, SB 328 exempts surplus land at the CNWS if it provides at least 10,000 units, 25% of which are affordable to lower income households, and includes a PLA. It also provides that each individual transfer of land is not subject to challenge under the SLA and that most challenges regarding compliance with the SLA must be brought within 180 days of signing the DDA. However, SB 328 *does* allow challenges later if, upon completion of the project, it does not meet the 25% affordability requirement. A successful challenge at that point would subject the land transfers to the penalties under the SLA. Additionally, the bill prohibits the local agency from amending the DDA to modify the affordability requirements, ensuring that the 25% affordability requirement remains in place.

Related legislation

SB 1145 (Grayson) contained similar provisions to SB 328, with the following major differences:

- SB 328 allows greater HCD oversight of dispositions than SB 1145 because SB 328 enacts an exemption for the land at CNWS, which is still subject to review by HCD, rather than an *exclusion*, which is not; and

- SB 328 grants CEQA judicial streamlining of 270 days, as feasible, for all projects in the project area. In short, any lawsuit brought against a project in this footprint gets bumped to the top of the court's docket.

- SB 328 specifies that new land use types that were never contemplated in the existing planning documents and EIR are not eligible for the abbreviated, tiered CEQA process established in the bill. The existing general plan and addendum consider a variety of different land use types, including residential, mixed use, and light industrial: heavy industrial is not a land use type in the General Plan or addendum. SB 328 buttons up a potential loophole in SB 1145 that could have allowed expedited environmental review for heavy industrial land uses that have not yet been considered in the existing environmental review.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 8/30/26)

Bac Local 3
Bay Area Council
Contra Costa Building and Construction Trades Council
Housing Action Coalition
IBEW Local 302
Smart, Sheet Metal Workers' Local Union No. 104
State Building & Construction Trades Council of California
Yimby Action

OPPOSITION: (Verified 8/30/26)

East Bay Housing Organizations
Kakoon Ta Ruk Band of Ohlone-costanoan Indians of the Big Sur Rancheria
Non-profit Housing Association of Northern California (NPH)
Public Advocates
Public Interest Law Project

San Diego Housing Federation
Western Electrical Contractors Association

ASSEMBLY FLOOR: 74-0, 8/30/26
AYES: Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Addis, Aguiar-Curry, Boerner, Johnson, Schiavo

Prepared by: Anton Favorini-Csorba / L GOV. / (916) 651-4119
11/5/26 14:42:42

****** END ******