

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN SENATE JULY 2, 2007

AMENDED IN ASSEMBLY MAY 25, 2007

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 697

Introduced by Assembly Member ~~Ruskin~~ Hancock

February 22, 2007

~~An act to amend Section 5544.2 of the Public Resources Code, relating to parks and recreation.~~ *An act to add Section 53084.5 to the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 697, as amended, ~~Ruskin Hancock. Parks and recreation: districts: repayment of indebtedness.~~ *Financial assistance: relocation of retailers.*

Existing law prohibits a redevelopment agency or a local agency, as defined, from providing any form of financial assistance to a vehicle dealer or big box retailer, or a business entity that sells or leases land to a vehicle dealer or big box retailer, that is relocating from the territorial jurisdiction of one community or local agency to the territorial jurisdiction of another community or local agency, as specified.

This bill would prohibit a local agency from entering into any form of agreement with a retailer, a consultant or agent representing a retailer, or any other person that would involve the payment, transfer, reduction, allocation, reallocation, diversion, or rebate of any amount

of Bradley-Burns local tax proceeds for any purpose if the agreement results in a substantial reduction in the amount of revenue that is received by another local agency from a retailer that is located within that other local agency, and the retailer continues to maintain a physical presence and location within that other local agency.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law provides for the creation and powers and duties of regional park districts, regional park and open-space districts, and regional open-space districts. Existing law authorizes those districts to acquire all necessary and proper lands and facilities by means of a plan to borrow money or by purchase on contract. Existing law requires indebtedness that is incurred in that manner to bear interest at a rate not exceeding 10% per annum, or at a different specified rate, if higher. Under existing law, indebtedness that is incurred in that manner on or after July 1, 1982, is generally required to be repaid during a period that does not exceed 20 years from the date on which it is incurred. Certain indebtedness incurred in that manner by the East Bay Regional Park District is required to be repaid in a period that does not exceed 30 years.~~

~~This bill would require indebtedness that is incurred in that manner by the East Bay Regional Park District or the Midpeninsula Regional Open Space District, on or after January 1, 2008, to be repaid during a period that does not exceed 30 years. The bill would make conforming changes:~~

~~The bill would modify the rate at which any indebtedness incurred in that manner is required to bear interest by deleting the requirement that it not exceed 10% per annum, but would retain the requirement that it bear interest at the different, specified rate.~~

~~Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no. State-mandated local program: no.~~

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

- 1 SECTION 1. *In enacting this measure, the Legislature finds*
- 2 *and declares that the facts associated with, and damages caused*
- 3 *to, several cities by the economic development agreement entered*
- 4 *into between the City of Fillmore and a certain company that*
- 5 *provides, under specified circumstances, for the monthly*
- 6 *disbursement to the company of 85 percent of the local sales tax*

1 *attributable to sales made within the City of Fillmore by new*
2 *retailers over a period of up to 20 years, has resulted in an*
3 *egregious and unjust reallocation of local Bradley-Burns sales*
4 *and use taxes away from several cities. To address this injustice*
5 *in an expedited fashion, the Legislature declares that a*
6 *continuation of this agreement between the City of Fillmore and*
7 *that company is against public policy.*

8 *SEC. 2. Section 53084.5 is added to the Government Code, to*
9 *read:*

10 *53084.5. (a) On and after July 1, 2008, a local agency shall*
11 *not enter into any form of agreement or take any action that would*
12 *result, directly or indirectly, in the payment, transfer, diversion,*
13 *or rebate of any tax revenue resulting from the imposition of a*
14 *sales and use tax under the Bradley-Burns Uniform Local Sales*
15 *and Use Tax Law (Part 1.5 (commencing with Section 7200) of*
16 *Division 2 of the Revenue and Taxation Code to any person for*
17 *any purpose when both of the following apply:*

18 *(1) The agreement results in a substantial reduction in the*
19 *amount of revenue that is received by another local agency from*
20 *a retailer that is located within the territorial jurisdiction of that*
21 *other local agency from the tax proceeds collected under the*
22 *Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5*
23 *(commencing with Section 7200) of Division 2) of the Revenue*
24 *and Taxation Code.*

25 *(2) The retailer continues to maintain a physical presence and*
26 *location within the territorial jurisdiction of that other local*
27 *agency. This subdivision shall not apply if the retailer has*
28 *expanded its operations into another jurisdiction with the result*
29 *that the retailer is conducting a comparable operation in both*
30 *local agencies.*

31 *(b) For purposes of this section, "local agency" shall mean a*
32 *city, a county, or a city and county.*

33 *(c) "Retailer" means a retailer as defined by Section 6015 of*
34 *the Revenue and Taxation Code.*

35 *(d) "Physical presence" means the lease or ownership of any*
36 *real property for the purpose of carrying on business operations.*

37 *(e) This section shall not apply to local tax proceeds provided*
38 *by a local agency to a retailer if the funds are used to reimburse*
39 *the retailer for the construction of public works improvements that*

1 *serve all or a portion of the territorial jurisdiction of the local*
2 *agency.*

3 *SEC. 3. This act is an urgency statute necessary for the*
4 *immediate preservation of the public peace, health, or safety within*
5 *the meaning of Article IV of the Constitution and shall go into*
6 *immediate effect. The facts constituting the necessity are:*

7 *In enacting this measure, the Legislature finds and declares that*
8 *the facts associated with and damages caused to several cities by*
9 *the economic development agreement entered into between the*
10 *City of Fillmore and a certain company has resulted in an*
11 *egregious and unjust reallocation of local sales and use taxes away*
12 *from several cities. To address this injustice in an expedited*
13 *fashion, the Legislature declares that a continuation of this*
14 *agreement between the City of Fillmore and that company is*
15 *against public policy.*

16 ~~SECTION 1. Section 5544.2 of the Public Resources Code is~~
17 ~~amended to read:~~

18 ~~5544.2. (a) A district may acquire all necessary and proper~~
19 ~~lands and facilities, or any portion thereof, by means of a plan to~~
20 ~~borrow money or by purchase on contract.~~

21 ~~(b) The amount of indebtedness to be incurred shall not exceed~~
22 ~~an amount equal to the anticipated property tax revenue allocations~~
23 ~~for the next five-year period derived pursuant to Chapter 6~~
24 ~~(commencing with Section 95) of Part 0.5 of Division 1 of the~~
25 ~~Revenue and Taxation Code or the anticipated tax income derived~~
26 ~~pursuant to Section 50077 of the Government Code, or both. The~~
27 ~~time period to repay the indebtedness shall not exceed the~~
28 ~~applicable time period provided in subdivision (c) or (d).~~

29 ~~(c) All indebtedness that is incurred on or after July 1, 1982,~~
30 ~~pursuant to this section shall be repaid during a period not to exceed~~
31 ~~20 years from the date on which it is incurred and shall bear interest~~
32 ~~at the rate allowed pursuant to Section 53531 of the Government~~
33 ~~Code, payable annually or semiannually or in part annually and~~
34 ~~in part semiannually. Notwithstanding any other provision of this~~
35 ~~section, with respect to the East Bay Regional Park District only,~~
36 ~~all indebtedness incurred pursuant to this section for acquisition~~
37 ~~of lands and facilities designated in the district's master plan,~~
38 ~~including the Chabot Ridgeland, shall be repaid during a period~~
39 ~~not to exceed 30 years and at a rate not exceeding the rate allowed~~
40 ~~in this section for other districts. All other acquisitions of land and~~

1 facilities by the East Bay Regional Park District not designated in
2 the master plan are subject to the 20-year repayment period
3 limitation of this section.

4 (d) Notwithstanding subdivision (c), all indebtedness that is
5 incurred by the East Bay Regional Park District or the
6 Midpeninsula Regional Open Space District, on or after January
7 1, 2008, pursuant to this section, shall be repaid during a period
8 not to exceed 30 years from the date on which it is incurred and
9 shall bear interest at the rate allowed pursuant to Section 53531
10 of the Government Code, payable annually or semiannually or in
11 part annually and in part semiannually.

12 (e) Each indebtedness shall be authorized by a resolution
13 adopted by the affirmative votes of at least two-thirds of the
14 members of the district board, shall be evidenced by a promissory
15 note or contract signed by the president of the board and attested
16 by the secretary or treasurer, and shall be sold at not less than 95
17 percent of the principal amount in the manner determined by the
18 board at a discount that equals the underwriter's spread. The board
19 shall determine that the discount reflects an underwriter's spread
20 that is both reasonable and customary under the prevailing market
21 conditions. One of the two signatures may be by facsimile
22 reproduction. At the time of making the general tax levy after
23 incurring each indebtedness and annually thereafter until the
24 indebtedness is paid or until there is a sum in the treasury set apart
25 for that purpose sufficient to meet all payments of principal and
26 interest on the indebtedness as they become due, a portion of the
27 taxes levied and collected pursuant to Section 50077 of the
28 Government Code, if any, shall be levied and collected and set
29 aside sufficient to pay the interest on the indebtedness and the part
30 of the principal that will become due before the proceeds of a tax
31 levied at the next general tax levy will be available.

32 (f) The indebtedness authorized to be incurred by this section
33 shall be in addition to, and the provisions of this section shall not
34 apply to, any bonded indebtedness authorized by vote of the
35 electors.

36 ~~SEC. 2.~~ The Legislature finds and declares that a special law
37 is necessary and that a general law cannot be made applicable
38 within the meaning of Section 16 of Article IV of the California
39 Constitution because of the high cost of land in the San Francisco

- 1 Bay area and the financial situation of the districts affected by this
- 2 act.

O