

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 470**

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**Introduced by Senator Wright**

February 21, 2013

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An act to add Part 4 (commencing with Section 52200) to Division 1 of Title 5 of the Government Code, relating to community development.

LEGISLATIVE COUNSEL'S DIGEST

SB 470, as amended, Wright. Community development: economic opportunity.

Existing law generally regulates the power of cities, counties, and cities and counties.

This bill would state the intent of the Legislature to promote economic development on a local level so that communities can enact local strategies to increase jobs, create economic opportunity, and generate tax revenue for all levels of government. The bill would define economic opportunity and declare that it is the policy of the state to protect and promote the sound development of economic opportunity in cities and counties, and the general welfare of the inhabitants of those communities through the employment of all appropriate means.

The bill would state that the creation of economic opportunity and the provisions for appropriate continuing land use and construction policies with respect to property acquired, in whole or in part, for economic opportunity constitute public uses and purposes for which public money may be advanced or expended and private property acquired. The bill would provide that before any city or county property ~~acquired in whole or in part, directly or indirectly, for economic opportunity purposes~~ is sold or leased for development, the sale or lease

shall first be approved by the legislative body, as specified. The bill would authorize a city, county, or city and county to establish a program under which it loans funds to owners or tenants for the purpose of rehabilitating commercial buildings or structures and to assist with the financing of facilities or capital equipment as part of an agreement that provides for the development or rehabilitation of property that will be used for industrial or manufacturing purposes, as specified.

This bill would authorize a city, county, or city and county to exercise authority to remedy or remove the release of hazardous substances within its boundaries consistent with state and federal laws, as specified. This bill would require a city, county, or city and county to request cleanup guidelines from the Department of Toxic Substances Control or a California regional water quality control board before taking an action under this authority, and limit the liability of a city, county, or city and county for taking an action under these provisions.

The bill would also authorize a city, county, or city and county to enter into a voluntary agreement with another city, county, or city and county, or a local taxing entity or joint powers authority, to jointly finance an economic opportunity project.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Part 4 (commencing with Section 52200) is added  
2 to Division 1 of Title 5 of the Government Code, to read:

3  
4 PART 4. ECONOMIC OPPORTUNITY  
5  
6 CHAPTER 1. GENERAL PROVISIONS  
7

8 52200. ~~(a)~~—It is the intent of the Legislature to do all of the  
9 following:

- 10 ~~(1)~~  
11 (a) Promote economic development on a local level so that  
12 communities can enact local strategies to increase jobs, create  
13 economic opportunity, and generate tax revenue for all levels of  
14 government.  
15 ~~(2)~~

1 (b) Give local governments tools, at no cost to the state, that  
2 allow local governments to use their funds in a manner that  
3 promotes economic opportunity.

4 ~~(3)~~

5 (c) With the loss of redevelopment funds, cities, counties, and  
6 cities and counties need to continue certain powers afforded to  
7 redevelopment agencies that were critical to economic  
8 development, yet do not have an impact on schools and the state  
9 budget.

10 ~~(b) Economic opportunity means any of the following:~~

11 ~~(1) Development agreements that create, retain, or expand new~~  
12 ~~jobs.~~

13 ~~(2) Development agreements that increase property tax revenues~~  
14 ~~to all property tax-collecting entities.~~

15 ~~(3) Creation of affordable housing.~~

16 ~~(4) Projects that meet the goals set forth in Chapter 728 of the~~  
17 ~~Statutes of 2008.~~

18 ~~(5) Transit-oriented development.~~

19 52200.2. As used in this part “economic opportunity” means  
20 any of the following:

21 (a) Development agreements or other agreements that create,  
22 retain, or expand new jobs, in which the Legislative body finds  
23 that the agreement will create or retain at least one full-time  
24 equivalent, permanent job for every thirty-five thousand dollars  
25 (\$35,000) of city, county, or city and county investment in the  
26 project after full capacity and implementation.

27 (b) Development agreements that increase property tax revenues  
28 to all property tax collecting entities, in which the legislative body  
29 finds that the agreement will result in an increase of at least 15  
30 percent of total property tax resulting from the project at full  
31 implementation when compared to the year prior to the property  
32 being acquired by the government entity.

33 (c) Creation of affordable housing, if a demonstrated affordable  
34 housing need exists in the community, as defined in the approved  
35 housing element or regional housing needs assessment.

36 (d) Projects that meet the goals set forth in Chapter 728 of the  
37 Statutes of 2008 and have been included in an adopted sustainable  
38 communities strategy or alternative planning strategy or a project  
39 that specifically implements the goals of those adopted plans.

1 (e) Transit priority projects, as defined in Section 21155 of the  
2 Public Resources Code.

3 (f) Development of properties that are returned to the city,  
4 county, or city and county per the long-range property management  
5 plan, as defined in subparagraph (A) of paragraph (2) of  
6 subdivision (c) of Section 34191.5 of the Health and Safety Code.

7 ~~52200.1.~~

8 52200.4. It is declared to be the policy of the state:

9 (a) To protect and promote the sound development of economic  
10 opportunity in cities and counties and the general welfare of the  
11 inhabitants of those communities through the employment of all  
12 appropriate means.

13 (b) That whenever the creation of economic opportunity in cities  
14 and counties cannot be accomplished by private enterprise alone,  
15 without public participation and assistance in the acquisition of  
16 land, in planning and in the financing of land assembly, in the  
17 work of clearance, and in the making of improvements necessary  
18 therefor, it is in the public interest to advance or expend public  
19 funds for these purposes, and to provide a means by which  
20 economic opportunity can be created.

21 (c) That the creation of economic opportunity and the provisions  
22 for appropriate continuing land use and construction policies with  
23 respect to property acquired, in whole or in part, for economic  
24 opportunity constitute public uses and purposes for which public  
25 money may be advanced or expended and private property  
26 acquired, and are governmental functions of state concern in the  
27 interest of health, safety, and welfare of the people of the state and  
28 cities and counties.

29 (d) That the necessity in the public interest for the provisions  
30 of this part is declared to be a matter of legislative determination.

31 ~~52200.2.~~

32 52200.6. This chapter shall not be interpreted to authorize the  
33 use of eminent domain for economic development purposes.

34

35 CHAPTER 2. SALES AND LEASES

36

37 52201. (a) (1) Before any city, county, or city and county  
38 property ~~acquired in whole or in part, directly or indirectly, for~~  
39 ~~economic opportunity purposes~~ is sold or leased for ~~development,~~  
40 *economic development purposes*, the sale or lease shall first be

1 approved by the legislative body by resolution after public hearing.  
2 Notice of the time and place of the hearing shall be published in  
3 a newspaper of general circulation in the community at least once  
4 per week for at least two successive weeks, as specified in Section  
5 6066, prior to the hearing.

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

11 (A) A copy of the proposed sale or lease.

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

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

18 (ii) The estimated value of the interest to be conveyed or leased,  
19 determined at the highest and best uses permitted under the general  
20 plan or zoning.

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

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

34 (v) The report shall be made available to the public no later than  
35 the time of publication of the first notice of the hearing mandated  
36 by this section.

37 (b) The resolution approving the lease or sale shall be adopted  
38 by a majority vote unless the legislative body has provided by  
39 ordinance for a two-thirds vote for that purpose and shall contain  
40 a finding that the sale or lease of the property will assist in the

1 creation of economic opportunity. The resolution shall also contain  
 2 one of the following findings:

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

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

8 52202. A city, county, or city and county may establish a  
 9 program under which it loans funds to owners or tenants for the  
 10 purpose of rehabilitating commercial buildings or structures.

11 52203. (a) As part of an agreement that provides for the  
 12 development or rehabilitation of property that will be used for  
 13 industrial or manufacturing purposes, a city, county, or city and  
 14 county may assist with the financing of facilities or capital  
 15 equipment, including, but not necessarily limited to, pollution  
 16 control devices.

17 (b) Prior to entering into an agreement for a development that  
 18 will be assisted pursuant to this section, a city, county, or city and  
 19 county shall find, after a public hearing, that the assistance is  
 20 necessary for the economic feasibility of the development and that  
 21 the assistance cannot be obtained on economically feasible terms  
 22 in the private market.

23

24 CHAPTER 3. OTHER PROCEDURES AND ACTIVITIES

25

26 52205. For purposes of this chapter, the following terms shall  
 27 have the following meanings:

28 (a) “Department” means the Department of Toxic Substances  
 29 Control.

30 (b) “Director” means the Director of Toxic Substances Control.

31 (c) “Hazardous substance” means any hazardous substance as  
 32 defined in subdivision (h) of Section 25281, and any reference to  
 33 hazardous substance in the definitions referenced in this section  
 34 shall be deemed to refer to hazardous substance, as defined in this  
 35 subdivision.

36 (d) “Local agency” means a single local agency that is one of  
 37 the following:

38 (1) A local agency authorized pursuant to Section 25283 of the  
 39 Health and Safety Code to implement Chapter 6.7 (commencing

1 with Section 25280) of, and Chapter 6.75 (commencing with  
2 Section 25299.10) of, Division 20 of the Health and Safety Code.

3 (2) A local officer who is authorized pursuant to Section 101087  
4 of the Health and Safety Code to supervise a remedial action.

5 (e) “Qualified independent contractor” means an independent  
6 contractor who is any of the following:

7 (1) An engineering geologist who is certified pursuant to Section  
8 7842 of the Business and Professions Code.

9 (2) A geologist who is registered pursuant to Section 7850 of  
10 the Business and Professions Code.

11 (3) A civil engineer who is registered pursuant to Section 6762  
12 of the Business and Professions Code.

13 (f) “Release” means any release, as defined in Section 25320  
14 of the Health and Safety Code.

15 (g) “Remedy” or “remove” means any action to assess, evaluate,  
16 investigate, monitor, remove, correct, clean up, or abate a release  
17 of a hazardous substance or to develop plans for those actions.  
18 “Remedy” includes any action set forth in Section 25322 of the  
19 Health and Safety Code and “remove” includes any action set forth  
20 in Section 25323 of the Health and Safety Code.

21 (h) “Responsible party” means any person described in  
22 subdivision (a) of Section 25323.5 of the Health and Safety Code  
23 or subdivision (a) of Section 13304 of the Water Code.

24 52206. (a) (1) A city, county, or city and county may take any  
25 actions that the city, county, or city and county determines are  
26 necessary and that are consistent with other state and federal laws  
27 to remedy or remove a release of hazardous substances on, under,  
28 or from property within its jurisdiction, whether the city, county,  
29 or city and county owns that property or not, subject to the  
30 conditions specified in subdivision (b). Unless an administering  
31 agency has been designated under Section 25262 of the Health  
32 and Safety Code, the city, county, or city and county shall request  
33 cleanup guidelines from the department or the California regional  
34 water quality control board before taking action to remedy or  
35 remove a release. The department or the California regional water  
36 quality control board shall respond to the city’s, county’s, or city  
37 and county’s request to provide cleanup guidelines within a  
38 reasonable period of time. The city, county, or city and county  
39 shall thereafter submit for approval a cleanup or remedial action  
40 plan to the department or the California regional water quality

1 control board before taking action to remedy or remove a release.  
2 The department or the California regional water quality control  
3 board shall respond to the city's, county's, or city and county's  
4 request for approval of a cleanup or remedial action plan within a  
5 reasonable period of time.

6 (2) The city, county, or city and county shall provide the  
7 department and local health and building departments, the  
8 California regional water quality control board, with notification  
9 of any cleanup activity pursuant to this section at least 30 days  
10 before the commencement of the activity. If an action taken by a  
11 city, county, or city and county or a responsible party to remedy  
12 or remove a release of a hazardous substance does not meet, or is  
13 not consistent with, a remedial action plan or cleanup plan  
14 approved by the department or the California regional water quality  
15 control board, the department or the California regional water  
16 quality control board that approved the cleanup or remedial action  
17 plan may require the city, county, or city and county to take, or  
18 cause the taking of, additional action to remedy or remove the  
19 release, as provided by applicable law. If an administering agency  
20 for the site has been designated under Section 25262 of the Health  
21 and Safety Code, any requirement for additional action may be  
22 imposed only as provided in Sections 25263 and 25265 of the  
23 Health and Safety Code. If methane or landfill gas is present, the  
24 city, county, or city and county shall obtain written approval from  
25 the California Integrated Waste Management Board prior to taking  
26 that action.

27 (b) Except as provided in subdivision (c), a city, county, or city  
28 and county may take the actions specified in subdivision (a) only  
29 under one of the following conditions:

30 (1) There is no responsible party for the release identified by  
31 the city, county, or city and county.

32 (2) A party determined by the city, county, or city and county  
33 to be a responsible party for the release has been notified by the  
34 city, county, or city and county or has received adequate notice  
35 from the department, a California regional water quality control  
36 board, the California Environmental Protection Agency, or other  
37 governmental agency with relevant authority and has been given  
38 60 days to respond and to propose a remedial action plan and  
39 schedule, and the responsible party has not agreed within an  
40 additional 60 days to implement a plan and schedule to remedy or

1 remove the release that is acceptable to the city, county, or city  
2 and county and that has been found by the city, county, or city and  
3 county to be consistent, to the maximum extent possible, with the  
4 priorities, guidelines, criteria, and regulations contained in the  
5 National Contingency Plan and published pursuant to Section 9605  
6 of Title 42 of the United States Code for similar releases, situations,  
7 or events.

8 (3) The party determined by the city, county, or city and county  
9 to be the responsible party for the hazardous substance release  
10 entered into an agreement with the city, county, or city and county  
11 to prepare a remedial action plan for approval by the department,  
12 the California regional water quality control board, or the  
13 appropriate local agency and to implement the remedial action  
14 plan in accordance with an agreed schedule, but failed to prepare  
15 the remedial action plan, failed to implement the remedial action  
16 plan in accordance with the agreed schedule, or otherwise failed  
17 to carry out the remedial action in an appropriate and timely  
18 manner. Any action taken by the city, county, or city and county  
19 pursuant to this paragraph shall be consistent with any agreement  
20 between the city, county, or city and county and the responsible  
21 party and with the requirements of the state or local agency that  
22 approved or will approve the remedial action plan and is overseeing  
23 or will oversee the preparation and implementation of the remedial  
24 action plan.

25 (c) Subdivision (b) does not apply to either of the following:

26 (1) A city, county, or city and county taking actions to  
27 investigate or conduct feasibility studies concerning a release.

28 (2) A city, county, or city and county taking the actions specified  
29 in subdivision (a) if the city, county, or city and county determines  
30 that conditions require immediate action.

31 (d) A city, county, or city and county may designate a local  
32 agency in lieu of the department or the California regional water  
33 quality control board to review and approve a cleanup or remedial  
34 action plan and to oversee the remediation or removal of hazardous  
35 substances from a specific hazardous substance release site in  
36 accordance with the following conditions:

37 (1) The local agency may be so designated if it is designated as  
38 the administering agency under Section 25262 of the Health and  
39 Safety Code. In that event, the local agency, as the administering  
40 agency, shall conduct the oversight of the remedial action in

1 accordance with Chapter 6.65 (commencing with Section 25260)  
2 of Division 20 of the Health and Safety Code and all provisions  
3 of that chapter shall apply to the remedial action.

4 (2) The local agency may be so designated if cleanup guidelines  
5 were requested from a California regional water quality control  
6 board, and the site is an underground storage tank site subject to  
7 Chapter 6.7 (commencing with Section 25280) of Division 20 of  
8 the Health and Safety Code, the local agency has been certified as  
9 a certified unified program agency pursuant to Section 25404.1 of  
10 the Health and Safety Code, the State Water Resources Control  
11 Board has entered into an agreement with the local agency for  
12 oversight of those sites pursuant to Section 25297.1 of the Health  
13 and Safety Code, the local agency determines that the site is within  
14 the guidelines and protocols established in, and pursuant to, that  
15 agreement, and the local agency consents to the designation.

16 (3) A local agency may not consent to the designation by a city,  
17 county, or city and county unless the local agency determines that  
18 it has adequate staff resources and the requisite technical expertise  
19 and capabilities available to adequately supervise the remedial  
20 action.

21 (4) (A) If a local agency has been designated pursuant to  
22 paragraph (2), the department or a California regional water quality  
23 control board may require that a local agency withdraw from the  
24 designation, after providing the city, county, or city and county  
25 with adequate notice, if both of the following conditions are met:

26 (i) The department or a California regional water quality control  
27 board determines that a city's, county's, or city and county's  
28 designation of a local agency was not consistent with paragraph  
29 (2), or makes one of the findings specified in subdivision (d) of  
30 Section 101480 of the Health and Safety Code.

31 (ii) The department or a California regional water quality control  
32 board determines that it has adequate staff resources and  
33 capabilities available to adequately supervise the remedial action,  
34 and it assumes that responsibility.

35 (B) This paragraph shall not prevent a California regional water  
36 quality control board from taking any action pursuant to Division  
37 7 (commencing with Section 13000) of the Water Code.

38 (5) If a local agency has been designated pursuant to paragraph  
39 (2), the local agency may, after providing the city, county, or city  
40 and county with adequate notice, withdraw from its designation

1 after making one of the findings specified in subdivision (d) of  
2 Section 101480 of the Health and Safety Code.

3 (e) To facilitate ~~redevelopment~~ planning, the city, county, or  
4 city and county may require the owner or operator of any site  
5 within a project area to provide the city, county, or city and county  
6 with all existing environmental information pertaining to the site,  
7 including the results of any phase I or subsequent environmental  
8 assessment, as defined in Section 25200.14 of the Health and Safety  
9 Code, any assessment conducted pursuant to an order from, or  
10 agreement with, any federal, state or local agency, and any other  
11 environmental assessment information, except that which is  
12 determined to be privileged. The person requested to furnish the  
13 information shall be required only to furnish that information as  
14 may be within their possession or control, including actual  
15 knowledge of information within the possession or control of any  
16 other party. If environmental assessment information is not  
17 available, the city, county, or city and county may require the  
18 owner of the property to conduct an assessment in accordance with  
19 standard real estate practices for conducting phase I or phase II  
20 environmental assessments.

21 52207. (a) Notwithstanding any other law, a city, county, or  
22 city and county that undertakes and completes an action, or causes  
23 another person to undertake and complete an action pursuant to  
24 Section 52206, as specified in subdivision (c), to remedy or remove  
25 a hazardous substance release on, under, or from property within  
26 its jurisdiction, in accordance with a cleanup or remedial action  
27 plan prepared by a qualified independent contractor and approved  
28 by the department or a California regional water quality control  
29 board or the local agency, as appropriate, pursuant to subdivision  
30 (b), is not liable, with respect to that release only, under Division  
31 7 (commencing with Section 13000) of the Water Code or Chapter  
32 6.5 (commencing with Section 25100), Chapter 6.7 (commencing  
33 with Section 25280), Chapter 6.75 (commencing with Section  
34 25299.10), or Chapter 6.8 (commencing with Section 25300), of  
35 Division 20 of the Health and Safety Code, or any other state or  
36 local law providing liability for remedial or removal actions for  
37 releases of hazardous substances. If the remedial action was also  
38 performed pursuant to Chapter 6.65 (commencing with Section  
39 25260) of Division 20 of the Health and Safety Code, and a  
40 certificate of completion is issued pursuant to subdivision (b) of

1 Section 25264 of the Health and Safety Code, the immunity from  
2 agency action provided by the certificate of completion, as  
3 specified in subdivision (c) of Section 25264 of the Health and  
4 Safety Code, shall apply to the city, county, or city and county, in  
5 addition to the immunity conferred by this section. In the case of  
6 a remedial action performed pursuant to Chapter 6.65 (commencing  
7 with Section 25260) of Division 20 of the Health and Safety Code,  
8 and for which the administering agency is a local agency, the  
9 limitations on the certificate of completion set forth in paragraphs  
10 (1) to (6), inclusive, of subdivision (c) of Section 25264 of the  
11 Health and Safety Code are limits on any immunity provided for  
12 by this section and subdivision (c) of Section 25264 of the Health  
13 and Safety Code.

14 (b) Upon approval of any cleanup or remedial action plan,  
15 pursuant to applicable statutes and regulations, the director or the  
16 California regional water quality control board or the local agency,  
17 as appropriate, shall acknowledge, in writing, within 60 days of  
18 the date of approval, that upon proper completion of the remedial  
19 or removal action in accordance with the plan, the immunity  
20 provided by this section shall apply to the city, county, or city and  
21 county.

22 (c) Notwithstanding any other law or policy providing for  
23 certification by a person conducting a remedial or removal action  
24 that the action has been properly completed, a determination that  
25 a remedial or removal action has been properly completed pursuant  
26 to this section shall be made only upon the affirmative approval  
27 of the director or the California regional water quality control  
28 board or the local agency, as appropriate. The department,  
29 California regional water quality control board, or local agency,  
30 as appropriate, shall, within 60 days of the date it finds that a  
31 remedial action has been completed, notify the city, county, or city  
32 and county in writing that the immunity provided by this section  
33 is in effect.

34 (d) The approval of a cleanup or remedial action plan under this  
35 section by a local agency shall also be subject to the concurrent  
36 approval of the department or a California regional water quality  
37 control board when the city, county, or city and county receiving  
38 the approval formed the local agency.

39 (e) Upon proper completion of a remedial or removal action,  
40 as specified in subdivision (c), the immunity from agency action

1 provided by the certificate of completion provided pursuant to  
2 subdivision (c) of Section 25264 of the Health and Safety Code  
3 and the immunity provided by this section extends to all of the  
4 following, but only for the release or releases specifically identified  
5 in the approved cleanup or remedial action plan and not for any  
6 subsequent release or any release not specifically identified in the  
7 approved cleanup or remedial action plan:

8 (1) Any employee or agent of the city, county, or city and  
9 county, including an instrumentality of the city, county, or city  
10 and county authorized to exercise some, or all, of the powers of a  
11 city, county, or city and county and any employee or agent of the  
12 instrumentality.

13 (2) Any person who enters into an agreement with a city, county,  
14 or city and county for reuse of the property, if the agreement  
15 requires the person to acquire property affected by a hazardous  
16 substance release or to remove or remedy a hazardous substance  
17 release with respect to that property.

18 (3) Any person who acquires the property after a person has  
19 entered into an agreement with a city, county, or city and county  
20 for reuse of the property as described in paragraph (2).

21 (4) Any person who provided financing to a person specified  
22 in paragraph (2) or (3).

23 (f) Notwithstanding any other law, the immunity provided by  
24 this section does not extend to any of the following:

25 (1) Any person who was a responsible party for the release  
26 before entering into an agreement, acquiring property, or providing  
27 financing, as specified in subdivision (e).

28 (2) Any person specified in subdivision (a) or (e) for any  
29 subsequent release of a hazardous substance or any release of a  
30 hazardous substance not specifically identified in the approved  
31 cleanup or remedial action plan.

32 (3) Any contractor who prepares the cleanup or remedial action  
33 plan, or conducts the removal or remedial action.

34 (4) Any person who obtains an approval, as specified in  
35 subdivision (b), or a determination, as specified in subdivision (c),  
36 by fraud, negligent or intentional nondisclosure, or  
37 misrepresentation, and any person who knows before the approval  
38 or determination is obtained or before the person enters into an  
39 agreement, acquires the property or provides financing, as specified

1 in subdivision (e), that the approval or determination was obtained  
2 by these means.

3 (g) The immunity provided by this section is in addition to any  
4 other immunity of a city, county, or city and county provided by  
5 law.

6 (h) This section shall not impair any cause of action by a city,  
7 county, or city and county or any other party against the person,  
8 firm, or entity responsible for the hazardous substance release that  
9 is the subject of the removal or remedial action taken by the city,  
10 county, or city and county or other person immune from liability  
11 pursuant to this section.

12 (i) This section shall not apply to, or limit, alter, or restrict, any  
13 action for personal injury, property damage, or wrongful death.

14 (j) This section shall not limit liability of a person described in  
15 paragraph (3) or (4) of subdivision (e) for damages under the  
16 Comprehensive Environmental Response, Compensation, and  
17 Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

18 (k) This section shall not establish, limit, or affect the liability  
19 of a city, county, or city and county for any release of a hazardous  
20 substance that is not investigated or remediated pursuant to this  
21 section or Chapter 6.65 (commencing with Section 25260) of  
22 Division 20 of the Health and Safety Code.

23 (l) The immunity provided for by this section shall only be  
24 conferred if both of the following apply:

25 (1) The action is in accordance with a cleanup or remedial action  
26 plan prepared by a qualified independent contractor and approved  
27 by the department or a California regional water quality control  
28 board or the local city, county, or city and county, as appropriate,  
29 pursuant to subdivision (b).

30 (2) The remedial or removal action is undertaken and properly  
31 completed, as specified in subdivision (c).

32 (m) The city, county, or city and county shall reimburse the  
33 department, the California regional water quality control board,  
34 and the local agency for costs incurred in reviewing or approving  
35 cleanup or remedial action plans pursuant to this section.

36 52208. (a) If a city, county, or city and county undertakes an  
37 action to remedy or remove, or to require others to remedy or  
38 remove, including compelling a responsible party through a civil  
39 action to remedy or remove, a release of hazardous substance, any  
40 responsible party or parties shall be liable to the city, county, or

1 city and county for the costs incurred in the action. A city, county,  
2 or city and county may not recover the costs of goods and services  
3 that were not procured in accordance with applicable procurement  
4 procedures. The amount of the costs shall include the interest on  
5 the costs accrued from the date of expenditure and reasonable  
6 attorney's fees and shall be recoverable in a civil action. Interest  
7 shall be calculated based on the average annual rate of return on  
8 a city's, county's, or city and county's investment of surplus funds  
9 for the fiscal year in which costs were incurred.

10 (b) The only defenses available to a responsible party shall be  
11 the defenses specified in subdivision (b) of Section 25323.5 of the  
12 Health and Safety Code.

13 (c) A city, county, or city and county may recover any costs  
14 incurred to develop and to implement a cleanup or remedial action  
15 plan approved pursuant to Sections 52206 and 52207, to the same  
16 extent the department is authorized to recover those costs. The  
17 scope and standard of liability for cost recovery pursuant to this  
18 section shall be the scope and standard of liability under the  
19 Comprehensive Environmental Response, Compensation, and  
20 Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.)  
21 as that act would apply to the department; provided, however, that  
22 any reference to hazardous substance therein shall be deemed to  
23 refer to hazardous substance as defined in subdivision (c) of Section  
24 52205.

25 (d) An action for recovery of costs of a remedy or removal  
26 undertaken by a ~~redevelopment~~ city, county, or city and county  
27 under this section shall be commenced within three years after  
28 completion of the remedy or removal.

29 (e) The action to recover costs provided by this section is in  
30 addition to, and is not to be construed as restricting, any other  
31 cause of action available to a city, county, or city and county.

32 (f) Except as provided in subdivision (m) of Section 52207,  
33 notwithstanding any other provision of state law or policy, a city,  
34 county, or city and county that undertakes and completes a remedial  
35 action, or otherwise causes a remedial action to be undertaken and  
36 completed pursuant to Sections 52206 and 52207, shall not be  
37 liable, based on its ownership of property after a release occurred,  
38 for any costs that any responsible party for that release incurs to  
39 investigate or remediate the release or to compensate others for  
40 the effects of that release.

1 52209. Except as provided in Section 52207, nothing in this  
2 chapter shall limit the powers of the State Water Resources Control  
3 Board or a California regional water quality control board to  
4 enforce Division 7 (commencing with Section 13000) of the Water  
5 Code.

6

7 CHAPTER 4. VOLUNTARY TAX-SHARING AGREEMENTS

8

9 52210. (a) A city, county, or city and county may enter into  
10 a voluntary agreement with another city, county, or city and county,  
11 or a local taxing entity or joint powers authority, to jointly finance  
12 a project authorized by Section ~~52200.1~~. 52200.4.

13 (b) This section shall not authorize a city, county, or city and  
14 county to collect and spend tax dollars from another jurisdiction  
15 without their written consent.