



California Special Districts Association
Districts Stronger Together



April 13, 2023

The Honorable Anna Caballero
Chair, Senate Committee on Governance and Finance
1021 O Street, Suite 6530
Sacramento, CA 95814

RE: Senate Bill 229 (Umberg) – Oppose Unless Amended [As Amended February 23, 2023]

Dear Senator Caballero:

The statewide associations and individual local agencies listed above must respectfully oppose Senate Bill 229, unless it is amended to address our concerns discussed below.

SB 229 will amend the Surplus Land Act (SLA) to provide that if a local agency is disposing of a parcel by sale or lease, and received a notice of violation from the Department of Housing and Community Development (HCD), pursuant to Government Code Section 54230.5, that it is in violation of the SLA with regard to the parcel, the local agency shall hold an open and public session to review and consider the substance of the notice of violation. In addition to any other applicable notice requirements, the local agency shall provide notice disclosed on the local agency's internet website, in a conspicuous public place at the offices of the local agency, and to HCD no later than 14 days before the public session at which the notice of violation will be considered. The local agency's governing body shall not take final action to ratify or approve the proposed disposal until a public session is held.

As written, the bill may create a concerning precedent for all local agencies statewide. Because SB 229 includes a reference to notices of violation from HCD in connection with a "sale **or lease**" by a local agency, the bill may establish a statutory precedent that leases are subject to the SLA. Notwithstanding guidelines developed by HCD defining "disposition of surplus land," at this time the term "dispose" is undefined in the SLA, and prior legislative efforts to define "dispose" to include leases were unsuccessful. Removing and excluding the bill's reference to leases would in no way compromise or otherwise impact the ability of this legislation to address a planned sale of surplus land. However, including any reference to leases in the bill would be inconsistent with the clear, established legislative intent for the meaning of disposal of surplus land that is subject to the requirements of the SLA. We therefore oppose SB 229 unless it is amended to remove its reference to leases and HCD notices of violations in connection with planned leases.

Local agencies routinely enter leases for a variety of purposes that support their work or operations and that do not relate to the purposes of the SLA. Examples include a cell tower lease, a lease to a nonprofit for office space because that nonprofit is partnering with a local government to further a governmental purpose, and a short-term lease of park space.

The clear, established intent of the Legislature is not to apply the requirements of the SLA for surplus land to leases. In 2019, as introduced, AB 1486 (Ting) proposed to define “dispose of” as the “sale, lease, transfer, or other conveyance of any interest in real property owned by a local agency” (emphasis added). A broad local agency coalition opposed this proposed expansion of the meaning of “dispose of,” and consequently leases were amended out of the bill before it became law.

Our organizations also seek amendments to the procedural requirements of SB 229, to provide greater flexibility to local agencies. While our organizations recognize the transparency concerns addressed by this bill, those concerns can be addressed while providing additional local agency flexibility. For example, a public meeting, instead of a public session, to consider a notice of violation, provides transparency while providing flexibility to local agencies in their selection of a format consistent with the Brown Act. Additionally, local agencies should be provided with an offramp from the requirement to hold a meeting if they elect not to proceed with a proposed disposal after receiving a notice of violation from HCD. Furthermore, not all local agencies maintain websites, and additional notice flexibility is needed.

For the above reasons, we must respectfully oppose Senate Bill 229, unless it is amended to address our concerns.

Sincerely,



Aaron A. Avery
Senior Legislative Representative
California Special District Association



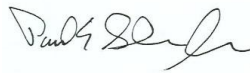
Dennis P. Cafferty
General Manager
El Toro Water District



Daniel R. Feron
General Manager
Santa Margarita Water District



Mark Neuburger
Legislative Advocate
California State Association of Counties



Paul E. Shoenberger, P.E.
General Manager
Mesa Waster District



Paul A. Cook
General Manager
Irvine Ranch Water District



Robert S. Grantham
General Manager
Rancho California Water District



Fernando Paludi
General Manager
Trabuco Canyon Water District



Jean Hurst
Legislative Representative
Urban Counties of California



Tracy Rhine
Senior Policy Advocate
Rural County Representatives of California



Sarah Bridge
Senior Legislative Advocate
Association of California Healthcare Districts



Rob Thompson
General Manager
Orange County Sanitation District

CC: The Honorable Thomas Umberg
Members, Senate Committee on Governance and Finance
Cassie Royce, Interim Consultant, Senate Committee on Governance and Finance
Ryan Eisberg, Policy Consultant, Senate Republican Caucus