



California Special Districts Association
Districts Stronger Together



April 25, 2023

The Honorable Anthony Portantino
 California State Senate Committee on Appropriations
 State Capitol, Room 412
 Sacramento, CA 95814

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

Dear Senator Portantino:

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. If a statutory precedent is established for the inclusion of leases in the SLA, it will increase SLA compliance costs for local agencies. 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. The bill’s prescriptive requirements for holding a public session, and absence of an offramp when that public session is no longer required due to changed circumstances, will increase SLA compliance costs for local agencies.

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

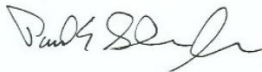
Sincerely,



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Senior Legislative Representative
California Special Districts Association



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Paul E. Shoenberger, P.E.
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CC: The Honorable Thomas Umberg
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