

Assembly Bill No. 440

Passed the Assembly September 12, 2013

Chief Clerk of the Assembly

Passed the Senate September 12, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 6.10 (commencing with Section 25403) to Division 20 of the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 440, Gatto. Hazardous materials: releases: local agency cleanup.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, perform obligations required pursuant to any enforceable obligation, including, but not limited to, any obligations under the Polanco Redevelopment Act to remedy or remove the release of hazardous substances within a project area consistent with state and federal laws, as specified.

Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act.

This bill would authorize a local agency to take any action similar to that under the Polanco Redevelopment Act that the local agency determines is necessary, consistent with other state and federal laws, to investigate and clean up a release of hazardous materials in a blighted area, as determined by the local agency, within the boundaries of the local agency, pursuant to the procedures specified in the bill.

The bill would require a local agency to submit for approval a cleanup plan to the California regional water control board or to the Department of Toxic Substances Control before taking action. The bill would require a local agency to take specified actions with regard to providing an opportunity for the public and other public agencies to participate in decisions regarding the proposed cleanup

plan. The bill would allow the local agency to take those cleanup activities only under specified conditions with regard to the responsible party for the release, unless the local agency is taking action to investigate or conduct feasibility studies concerning a release or determines that conditions require immediate action.

The bill would allow the local agency to designate another agency, in lieu of the department or the regional board, to review and approve a cleanup plan and to oversee the cleanup of hazardous material from a hazardous material release site, under certain conditions. The bill would immunize a local agency that cleans up a hazardous material release, pursuant to those provisions, from liability under specified state laws, if the action is in accordance with a cleanup plan prepared by a qualified independent contractor, as defined, and approved by the department, a regional board, or the designated agency, and the cleanup is undertaken and properly completed. The bill would authorize the recovery by a local agency of cleanup costs from the responsible party.

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

SECTION 1. Chapter 6.10 (commencing with Section 25403) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.10. HAZARDOUS MATERIAL RELEASE CLEANUP

25403. For purposes of this chapter, the following terms shall have the following meanings:

(a) “Blighted area” means an area in which the local agency determines there are vacancies, abandonment of property, or a reduction or lack of proper utilization of property, and the presence or perceived presence of a release or releases of hazardous material contributes to the vacancies, abandonment of property, or reduction or lack of proper utilization of property.

(b) “Blighted property” means property with the presence or perceived presence of a release or releases of hazardous material that contributes to the vacancies, abandonment of property, or reduction or lack of proper utilization of property.

(c) “Clean up” or “cleanup” means an action taken to remove, as defined in Section 25323, remediate, as described in subdivision

(a) or (b) of Section 25322, or otherwise abate the effects of a release of hazardous material.

(d) “Cleanup plan” means a document that details the actions to be taken to clean up a release of a hazardous material.

(e) “CUPA” means the Certified Unified Program Agency certified to implement the unified program pursuant to Chapter 6.11 (commencing with Section 25404).

(f) “Department” means the Department of Toxic Substances Control.

(g) “Designated agency” means an agency designated by the local agency pursuant to paragraph (1) or (2) of subdivision (e) of Section 25403.1.

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

(i) “Hazardous material” has the same meaning as defined in subdivision (d) of Section 25260.

(j) “Investigation” means an action taken to determine the source, nature, and extent of a release of hazardous material with sufficient detail to provide a reasonable basis for decisions regarding the cleanup of the hazardous material. An investigation does not include a Phase I or Phase II environmental site assessment.

(k) “Investigation plan” means a document that specifies actions to be taken to investigate a suspected release of hazardous material. An investigation plan does not include a Phase I or Phase II environmental site assessment.

(l) “Local agency” means both of the following:

(1) A county, a city, or a city and county.

(2) A “housing authority,” as provided in Section 34240, if the housing authority is an entity assuming the housing functions of a former redevelopment agency pursuant to paragraph (2) of subdivision (a) of Section 34176 and the property subject to this chapter was transferred from that successor agency to the housing authority.

(m) “Person” means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, and corporation, including, but not limited to, a government corporation. “Person” also includes any local agency, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal

government or any department or agency thereof to the extent permitted by law.

(n) “Phase I environmental assessment” means a preliminary assessment of a property to determine whether there has been, or may have been, a release of hazardous material based on reasonable available information about the property and general vicinity. A Phase I environmental assessment shall meet the most current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process or meet the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations.

(o) “Phase II environmental assessment” means an intrusive study where actual physical environmental samples are collected and analyzed to characterize the type and distribution of hazardous material in the environment. A phase II environmental assessment shall meet the most current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process.

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

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

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

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

(q) “Regional board” means a California regional water quality control board.

(r) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment on blighted property.

(s) “Responsible party” means a person described in subdivision (a) of Section 25323.5 of this code or subdivision (a) of Section 13304 of the Water Code.

(t) “Site designation committee” means the committee established pursuant to Section 25261.

(u) “State board” means the State Water Resources Control Board.

25403.1. (a) (1) (A) A local agency may, in accordance with this chapter, take any action that the local agency determines is necessary and that is consistent with other state and federal laws to investigate or clean up a release on, under, or from blighted property that the local agency has found to be within a blighted area within the local agency's boundaries due to the presence of hazardous materials following a Phase I or Phase II environmental assessment pursuant to subdivision (f), whether the local agency owns that property or not. When taking action pursuant to this chapter, if the local agency does not own property that is the subject of the investigation and cleanup activities, the local agency has the right to enter that property, if, upon providing notice to the owner of that property in accordance with subparagraph (A) of paragraph (2) of subdivision (b), the owner of the property does not respond to the notice or the local agency reasonably deems the response inadequate.

(B) The local agency shall contact the department or the appropriate regional board prior to issuing a notice pursuant to paragraph (2) of subdivision (b) in connection with a property on the National Priority List or a property or release subject to any of the following:

- (i) Chapter 6.5 (commencing with Section 25100).
- (ii) A Cease and Desist Order issued under Section 13301 of the Water Code.
- (iii) A Cleanup and Abatement Order issued under Section 13304 of the Water Code.
- (iv) An existing voluntary cleanup agreement between the regional board or the department and a responsible party that requires a cleanup by a specified date.
- (v) An order issued by a regional board pursuant to Section 13267 of the Water Code, or an agreement entered into by the department pursuant to Section 25187, 25355.5, or 25358.3, for the investigation or cleanup at a site.
- (vi) A remedial action order, an imminent or substantial endangerment order or agreement, a prospective purchase agreement, or an order on consent issued pursuant to Section 25355.5, 25356.1.3, or 25358.3, as applicable.
- (vii) An expedited remediation order issued pursuant to the former Chapter 6.86 (commencing with Section 25396), as that chapter read on January 1, 2012.

(viii) An agreement entered into pursuant to the California Land Reuse and Revitalization Act (Chapter 6.82 (commencing with Section 25395.60)), as specified in Section 25395.92.

(ix) An agreement for the environmental oversight of schools entered into pursuant to Section 17213.1 of the Education Code and in accordance with Sections 17201 and 17210.1 of the Education Code.

(C) (i) If the department or the regional board objects within 30 days to the local agency issuing the notice, the local agency and the department or regional board shall promptly meet and confer to resolve the department's or regional board's concerns. If the local agency and the department or the regional board cannot reach a mutually acceptable resolution on sites identified in clause (iv) of subparagraph (B) of paragraph (1), the matter shall be submitted to the site designation committee created pursuant to Section 25261.

(ii) Notwithstanding subdivision (a) of Section 25261, the designee of the department or the regional board on the site designation committee shall not participate in the review of a dispute involving the department or a regional board, respectively. The decision of the site designation committee shall resolve the matter impartially, by majority vote, and within 45 days of the date on which the matter is presented. Either party to the dispute may present the matter to the site designation committee, and each party shall be given a reasonable opportunity to be heard.

(2) A local agency shall, before taking action to clean up the release, do all of the following:

(A) If the investigation has not been completed or additional investigation is necessary, have an investigation plan prepared by an independent qualified contractor.

(B) Submit an investigation plan and cost recovery agreement to the regional board or the department for review and approval.

(C) After completion of the investigation plan, have a cleanup plan prepared by an independent qualified contractor.

(D) Submit a cleanup plan and existing applicable documents required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to the regional board or to the department for approval.

(E) Comply with the public participation requirements specified in Section 25403.7.

(3) The regional board or the department shall act on the investigation plan within 30 days of receipt of the investigation plan.

(4) The regional board or the department shall respond to the local agency's request for approval of a cleanup plan within 60 days of the receipt of the plan.

(5) Within 60 days after approval of the cleanup plan, pursuant to applicable statutes and regulations, the director or the regional board, as appropriate, shall acknowledge, in writing, that upon proper completion of the cleanup in accordance with the cleanup plan, the immunity provided by Section 25403.2 shall apply.

(6) The local agency shall notify the department and local health and building departments and the regional board of any cleanup activity pursuant to this section at least 30 days before the commencement of the activity.

(7) If an action taken by a local agency or a responsible party to clean up a release of a hazardous material does not meet, or is not consistent with, a cleanup plan approved by the regional board or the department, the department or the regional board that approved the cleanup plan may require the responsible party or local agency to take, or cause the taking of, additional action to clean up the release, as provided by applicable law.

(8) If an administering agency for the site has been designated pursuant to Section 25262, the department or the regional board may impose any requirements for additional action pursuant to paragraph (7) only as provided in Sections 26263 and 25265.

(9) If methane or landfill gas is present, the local agency shall obtain written approval from the Department of Resources Recycling and Recovery prior to taking action authorized under this subdivision.

(b) Except as provided in subdivision (c), a local agency may take the actions specified in subdivision (a) only under one of the following conditions:

(1) There is no responsible party for the release identified by the local agency.

(2) Both of the following apply:

(A) A party determined by the local agency to be a responsible party for the release has been notified by the local agency, or has

received adequate notice from the department, a regional board, the California Environmental Protection Agency, or other governmental agency with relevant authority, and has been given 60 days to respond and to propose an investigation plan and schedule if in the opinion of the responsible party's qualified independent contractor there is not enough site-specific data to prepare a cleanup plan, and 60 days to propose a cleanup plan and schedule following completion of the investigation plan in accordance with the investigation plan schedule approved by the local agency.

(B) The responsible party specified in subparagraph (A) has not agreed within an additional 60 days to implement an investigation plan and schedule to investigate or clean up the release that meets both of the following requirements:

(i) The investigation plan and schedule and the cleanup plan and schedule are acceptable to the local agency.

(ii) The local agency makes a finding that the investigation plan and schedule and the cleanup plan and schedule are consistent with the intended development schedule and use of the property.

(3) (A) The party determined by the local agency to be the responsible party for the hazardous material release entered into an agreement with the local agency to prepare an investigation plan or cleanup plan for approval by the department, the regional board, or the appropriate local agency, and to implement the investigation plan or cleanup plan in accordance with an agreed schedule, but failed to do any of the following:

(i) Prepare the investigation plan or cleanup plan.

(ii) Implement the investigation plan or cleanup plan in accordance with the agreed schedule.

(iii) Otherwise failed to carry out the investigation in an appropriate and timely manner.

(B) An action taken by the local agency pursuant to this paragraph shall be consistent with any agreement between the local agency and the responsible party and with the requirements of the state agency or the designated agency that approved or will approve the cleanup plan and is overseeing or will oversee the preparation and implementation of the cleanup plan.

(c) The responsible party specified in subparagraph (A) of paragraph (2) of subdivision (b) may appeal a 60-day notice issued pursuant to this section to the local agency's governing body by

filing a written request to appeal the notice with the clerk of the local agency within 30 days of receipt of the notice. Filing an appeal to the local agency's governing body tolls the 60-day notice period until the appeal is heard and decided by the local agency's governing body. Any challenge to the decision reached by the local agency's governing body shall be presented only as part of a cost recovery or injunctive proceeding initiated by the local agency under Section 25403.5. The local agency's decision shall be upheld if supported by substantial evidence presented in the action commenced under Section 25403.5, and shall not be invalidated on the grounds that the local agency failed to include all responsible parties in a 60-day notice issued pursuant to this section. A claim of failure to include all responsible parties in a 60-day notice issued pursuant to this section shall not be a defense to the liability provided for in Section 25403.5.

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

(1) A local agency taking actions to conduct a Phase I or Phase II environmental assessment in accordance with standard real estate practices.

(2) A local agency taking the actions specified in subdivision (a) if the local agency determines that conditions require immediate action due to an imminent threat to human health or the environment.

(e) (1) A local agency may designate another agency, in lieu of the department or the regional board, to review and approve a cleanup plan and to oversee the cleanup of hazardous materials from a specific hazardous material release site if the agency is designated as the administering agency under Section 25262. In that event, the designated agency shall conduct the oversight of the cleanup in accordance with Chapter 6.65 (commencing with Section 25260), and all provisions of that chapter shall apply to the cleanup.

(2) A local agency may designate another agency to review and approve a cleanup plan for a site and oversee the cleanup at the site if all of the following conditions exist:

(A) The designated agency is certified as a CUPA.

(B) The site is an underground storage tank site subject to Chapter 6.7 (commencing with Section 25280).

(C) The designated agency is certified pursuant to Section 25297.01 and the state board has entered into an agreement with the designated agency pursuant to Section 25297.1.

(D) The designated agency determines that the site is within the guidelines and protocols established in, and pursuant to, the agreement specified in subparagraph (C).

(E) The designated agency consents to the designation.

(3) Within 60 days after approving a cleanup plan pursuant to paragraph (1) or (2), the designated agency shall issue a notice that, upon proper completion of the cleanup plan, the immunity specified in Section 25403.2 shall apply. If the designated agency was formed by the local agency, the cleanup plan shall also be subject to the approval of the department or regional board.

(4) (A) An agency may not consent to the designation pursuant to paragraph (1) or (2) unless the designated agency determines that it has adequate staff resources and the requisite technical expertise and capabilities available to adequately supervise the cleanup.

(B) If an agency has been designated pursuant to paragraph (2), the department or a regional board may require the designated agency to withdraw from the designation or stop taking action pursuant to that designation, after providing the designated agency with adequate notice, if both of the following conditions are met:

(i) The department or a regional board determines that the agency's designation was not consistent with paragraph (2), or makes one of the findings specified in subdivision (d) of Section 101480.

(ii) The department or a regional board determines that it has adequate staff resources and capabilities available to adequately supervise the cleanup, and assumes that responsibility.

(C) This paragraph does not prevent a regional board from taking an action pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(5) If an agency has been designated pursuant to paragraph (1) or (2), the designated agency may, after providing the local agency with adequate notice, withdraw from its designation or stop taking action pursuant to that designation after making one of the findings specified in subdivision (d) of Section 101480.

(f) (1) To facilitate remedial planning, the local agency may require the owner or operator of a site within the local agency's

jurisdictional boundaries to provide the local agency with all existing environmental information pertaining to the site, including the results of any phase I or subsequent environmental assessment, any assessment conducted pursuant to an order from, or agreement with, any federal, state, or local agency, and any other environmental assessment information, except that which is determined to be privileged.

(2) A person requested to furnish the information pursuant to paragraph (1) shall be required only to furnish that information that may be within that person's possession or control, including actual knowledge of information within the possession or control of any other party. If environmental assessment information is not available, the local agency may require the owner of the property to conduct, and to pay the expenses of conducting, an assessment in accordance with standard real estate practices for conducting phase I or phase II environmental assessments. If the local agency conducts the phase I or phase II environmental assessment because the owner or operator failed to provide this information, the local agency shall have a right of entry, upon reasonable notice, to enter the property and conduct the phase I or phase II environmental assessment. The local agency may recover the costs of the phase I or phase II environmental assessment in accordance with Section 25403.5.

25403.2. (a) (1) Notwithstanding any other law, except as otherwise provided in this chapter, a local agency that undertakes and completes an action, or causes another person to undertake and complete an action pursuant to Section 25403.1 for which a finding of completion is made pursuant to subdivision (b), to clean up a hazardous material release on, under, or from property within the local agency's boundaries, in accordance with a cleanup plan prepared by a qualified independent contractor and approved by the department, a regional board, or the designated agency, in accordance with Section 25403.1, is not liable, with respect to that release only, pursuant to any of the following:

(A) Division 7 (commencing with Section 13000) of the Water Code.

(B) Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), or Chapter 6.8 (commencing with Section 25300), of Division 20.

(C) Any other state or local law imposing liability for cleanup of releases of hazardous materials.

(2) If the cleanup was also performed pursuant to Chapter 6.65 (commencing with Section 25260) of Division 20, and a certificate of completion is issued pursuant to subdivision (b) of Section 25264, the immunity from local agency action provided by the certificate of completion, as specified in subdivision (c) of Section 25264, shall apply to the local agency, in addition to the immunity conferred by this section.

(3) In the case of a cleanup performed pursuant to Chapter 6.65 (commencing with Section 25260) of Division 20, and for which the administering agency is a local agency, the limitations on the certificate of completion set forth in paragraphs (1) to (6), inclusive, of subdivision (c) of Section 25264 are limits on any immunity provided for by this section and subdivision (c) of Section 25264.

(b) Notwithstanding any provision of law or policy providing for certification by a person conducting a cleanup that the action has been properly completed, a determination that a cleanup has been properly completed pursuant to this section shall be made only upon the affirmative approval of the director, the regional board, or the designated agency, as appropriate. The department or regional board, as appropriate, shall, within 60 days of the date it finds that a cleanup has been completed, notify the local agency in writing that the immunity provided by this section is in effect. If another agency is designated to oversee the cleanup pursuant to paragraph (1) or (2) of subdivision (d) of Section 25403.1, the designated agency shall issue a notice within 60 days of the date it finds that a cleanup has been completed.

(c) Upon proper completion of a cleanup, as specified in subdivision (b), the immunity from action provided by the certificate of completion provided pursuant to subdivision (c) of Section 25264 and the immunity provided by this section extends to all of the following, but only for the release or releases specifically identified in the approved cleanup plan and not for any subsequent release or any release not specifically identified in the approved cleanup plan:

(1) An employee or agent of the local agency, including an instrumentality of the local agency authorized to exercise some, or all, of the powers of a local agency within, or for the benefit of, a local agency and an employee or agent of the instrumentality.

(2) A person that enters into an agreement with a local agency for the development of property, if the agreement requires the person to acquire property affected by a hazardous material release or to clean up a hazardous material release with respect to that property.

(3) A person that acquires the property after a person has entered into an agreement with a local agency for development of the property, as described in paragraph (2).

(4) A person that provides financing to a person specified in paragraph (2) or (3).

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

(1) A person that was a responsible party for the release before entering into an agreement, acquiring property, or providing financing, as specified in subdivision (c).

(2) A person specified in subdivision (a) or (c) for any subsequent release of a hazardous material or any release of a hazardous material not specifically identified in the approved cleanup plan.

(3) A contractor who prepares the cleanup plan or conducts the cleanup.

(4) A person that obtains an approval of a cleanup plan pursuant to Section 25403.1, or pursuant to a finding, as specified in subdivision (b), by fraud, negligent or intentional nondisclosure, or misrepresentation, and a person that knows before the approval or determination is obtained or before the person enters into an agreement, acquires the property, or provides financing, as specified in subdivision (c), that the approval or determination was obtained by these means.

(e) The immunity provided by this section is in addition to any other immunity provided by law to a local agency.

(f) This section does not impair any cause of action by a local agency or any other party against the person responsible for the hazardous material release that is the subject of the cleanup taken by the local agency or other person immune from liability pursuant to this section.

(g) This section does not apply to, or limit, alter, or restrict, an action for personal injury or wrongful death.

(h) This section does not limit liability of a person described in paragraph (3) or (4) of subdivision (d) for damages under the

federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(i) This section does not establish, limit, or affect the liability of a local agency for a release of a hazardous material that is not investigated or cleaned up pursuant to this section or Chapter 6.65 (commencing with Section 25260).

25403.3. The immunity provided for by Section 25403.2 is only conferred if both of the following apply:

(a) The action is in accordance with a cleanup plan prepared by a qualified independent contractor and approved by the department, a regional board, or the designated agency, as appropriate, pursuant to Section 25403.1.

(b) The cleanup is found to have been undertaken and properly completed, as specified in subdivision (b) of Section 25403.2.

25403.4. Within 60 days of being presented with a bill from the department or regional board, the local agency shall reimburse the department or the regional board for costs incurred in reviewing or approving investigation plans and cleanup plans pursuant to this chapter. The department or regional board may develop a payment plan, consistent with Section 25269, with the local agency to repay costs over a longer period of time. In the event of any dispute over the costs, the local agency shall pay any undisputed costs and meet and confer with the department or regional board to resolve the disputed items. In connection with any disputes not resolved through meet and confer efforts, the local agency may utilize any review processes maintained by the department or the regional board.

25403.5. (a) Except as otherwise provided in this chapter, if a local agency undertakes action to investigate property or clean up, or to require others to investigate or clean up, including compelling a responsible party through a civil injunctive action, a release of hazardous material, the responsible party shall be liable to the local agency for the costs incurred in the action. A local agency may not recover the costs of goods and services that were not procured in accordance with procurement procedures, where applicable. The amount of the costs shall include the interest on the costs accrued from the date of expenditure and reasonable attorney's fees and shall be recoverable in a civil action. Interest shall be calculated based on the average annual rate of return on

a local agency's investment of surplus funds for the fiscal year in which costs were incurred.

(b) The only defenses available to a responsible party shall be the defenses specified in subdivision (b) of Section 25323.5.

(c) A local agency may recover any costs incurred to develop and to implement a cleanup plan approved pursuant to this chapter, to the same extent the department is authorized to recover those costs. The scope and standard of liability for cost recovery pursuant to this section shall be the scope and standard of liability under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) as that act would apply to the department. However, any reference to hazardous substance in that act shall be deemed to refer to hazardous material as defined in Section 25403. It is the intent of the Legislature that local agencies diligently pursue reimbursement for investigation and cleanup costs incurred pursuant to this chapter, but each local agency is authorized to assess whether and to what extent cost recovery is practicable.

(d) An action for recovery of the costs of a cleanup undertaken by a local agency under this section shall be commenced within three years after completion of the cleanup.

(e) The action to recover costs provided by this section is in addition to, and is not to be construed as restricting, any other cause of action available to a local agency.

25403.6. (a) Except as provided in Section 25403.4, notwithstanding any other state law or policy, a local agency that undertakes and completes a cleanup, or otherwise causes a cleanup to be undertaken and completed pursuant to this chapter shall not be liable based on its ownership of property after a release occurred, for any costs that any responsible party for that release incurs to investigate or clean up the release or to compensate others for the effects of that release.

(b) Except as provided in Section 25403. 2, this article does not limit the powers of the state board or a regional board to enforce Division 7 (commencing with Section 13000) of the Water Code.

25403.7. A local agency shall comply with all the following requirements with regard to providing public participation when taking action pursuant to this chapter:

(a) The local agency shall provide an opportunity, when preparing the cleanup plan, for the public and for other public agencies to participate in decisions regarding the cleanup plan, taking into consideration the nature of the community interest.

(b) Thirty days before submitting the cleanup plan for approval, the local agency shall take all of the following actions:

(1) Notify all other appropriate public agencies, including, but not limited to, the department or the regional board, if not required to approve the plan, regarding the proposed cleanup plan.

(2) Place a notice in a newspaper of general circulation in the area of the property, including, but not limited to, a community-based newspaper, as appropriate.

(3) Post notice of the proposed cleanup plan on the property.

(c) All of the following methods for public participation shall be used to notify the public of the proposed cleanup plan:

(1) Thirty days' prior public notice in a factsheet format of the proposed cleanup plan, in English and in any other language commonly spoken in the area of the property.

(2) Access, at both the local agency and at local repositories, to the proposed cleanup plan, property assessment, addenda, and any other supporting documentation, including materials listed as references in the cleanup plan and property assessment.

(3) Procedures for providing a reasonable opportunity to comment on the plan and related documents specified in paragraph (2).

(d) If a public meeting is requested, the local agency shall hold a public meeting in the area of the property to receive comments.

(e) The local agency shall consider any comments received before submitting the proposed cleanup plan for approval.

(f) The local agency may also provide for, but is not limited to, the use of other methods for public participation, including public notices, direct notification of interested parties, distribution of electronic copies of the cleanup plan, property assessment addenda, and other supporting documentation, including materials listed as references in the cleanup plan and property assessment, electronic comment forms, and forming advisory groups, as appropriate, to disseminate information and assist the local agency in gathering public input, holding additional public meetings or public hearings, and providing an opportunity to comment on the proposed cleanup plan prior to approval.

(g) The local agency, as part of its communications with affected communities, shall provide information regarding the process by which decisions about the property are made and the recourse that is available for those who may disagree with an agency decision.

(h) The local agency shall consider the issue of environmental justice, as defined in subdivision (e) of Section 65040.12 of the Government Code, for communities most impacted, including low-income and racial minority populations, before submitting the cleanup plan for approval.

(i) To the extent possible, the local agency shall coordinate its public participation activities with those undertaken by other jurisdictions and agencies associated with the property, to avoid duplication.

(j) It is the intent of the Legislature that the public participation process established pursuant to this section ensures full and robust participation of a community affected by this chapter.

25403.8. The Legislature finds and declares that this chapter is the policy successor to the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Part 1 of Chapter 4 of Division 24) and shall be interpreted and implemented consistent with that act. It is further the intent of the Legislature that any judicial construction or interpretation of the Polanco Redevelopment Act also apply to this chapter.

Approved _____, 2013

Governor