

**ASSEMBLY BILL**

**No. 750**

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**Introduced by Assembly Member Garcia**

February 21, 2013

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An act to add Article 3.75 (commencing with Section 37450) to Chapter 5 of Part 2 of Division 3 of Title 4 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 750, as introduced, Garcia. Economic development: cities.

The California Constitution generally prohibits the making of a gift of any public money, or thing of value.

Existing law authorizes a city to purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of it for the common benefit, and to lease property owned or held or controlled by it, or any of its departments, as prescribed.

This bill would authorize a city to dispose of real property, as provided, or provide compensation to a private entity, if the legislative body of the city is presented with, or presents, substantial evidence that the disposition of the property or provision of compensation would stimulate job creation and economic development within the boundaries of the city, and that the amount of private benefit provided would not outweigh the amount of public benefit received through the disposition of the property or the provision of compensation. The bill would provide that the disposition of real property or provision of compensation under these circumstances would not constitute a gift of public funds under the California Constitution.

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

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

1 SECTION 1. Article 3.75 (commencing with Section 37450)  
2 is added to Chapter 5 of Part 2 of Division 3 of Title 4 of the  
3 Government Code, to read:

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Article 3.75. Economic Development

7 37450. (a) Notwithstanding any other law, the disposition of  
8 real property by a city shall not constitute a gift of public funds  
9 under Section 6 of Article XVI of the California Constitution, and  
10 shall constitute an action taken for a public purpose, provided that  
11 the legislative body of the city disposing of the real property is  
12 presented with, or presents, substantial evidence of both of the  
13 following:

14 (1) (A) That the disposition of the property will stimulate job  
15 creation and economic development within the boundaries of the  
16 city.

17 (B) For purposes of this section, “disposition” means the sale,  
18 lease, transfer, or exchange of real property, or any combination  
19 thereof.

20 (2) That the amount of private benefit provided will not  
21 outweigh the amount of public benefit received through the sale,  
22 lease, or disposition.

23 (b) The disposition of real property pursuant to this section shall  
24 be in compliance with the California Constitution and other  
25 applicable law relating to the sale, lease, or disposition of real  
26 property.

27 37452. (a) Notwithstanding any other law, a city may provide  
28 compensation to a private party, that is less than or equal to the  
29 share of sales taxes received by the city as a result of the sales  
30 tax-generating activities of the private party within the municipal  
31 boundaries of the city, less the city’s costs of administration with  
32 respect to those sales tax receipts.

33 (b) The provision of compensation to a private party pursuant  
34 to this section shall not constitute a gift of public funds under  
35 Section 6 of Article XVI of the California Constitution, and shall  
36 constitute an action taken for a public purpose, provided that the  
37 legislative body of the city is presented with, or presents,  
38 substantial evidence of both of the following:

1 (1) The compensation provided to a private party under this  
2 section will stimulate economic development within the municipal  
3 boundaries of the city.

4 (2) The private benefit provided will not outweigh the amount  
5 of public benefit received through the provision of compensation  
6 to a private party pursuant to this section.

7 SEC. 2. If any provision of this act or the application thereof  
8 to any person or circumstance is held invalid, the invalidity shall  
9 not affect other provisions or applications of this act which can be  
10 given effect without the invalid provision or application and to  
11 this end, the provisions of this act are severable.

12 SEC. 3. The Legislature finds and declares that responsible  
13 use of public funds and encouragement of economic growth are  
14 issues of statewide concern and do not constitute a municipal affair  
15 as that term is used in Section 5 of Article XI of the California  
16 Constitution. Accordingly, it is the intent of the Legislature that  
17 Section 1 applies to every city in this state, including charter cities.