

AMENDED IN ASSEMBLY MAY 5, 2014
AMENDED IN ASSEMBLY APRIL 21, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2135

Introduced by Assembly Member Ting

February 20, 2014

An act to amend Sections ~~54221~~, 54223, 54225, 54226, and 54227 of the Government Code, relating to surplus property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2135, as amended, Ting. Local agencies: surplus land: affordable housing.

(1) Existing law prescribes requirements for the disposal of surplus land by local agencies, which are defined to include districts. Existing law requires an agency disposing of surplus land to negotiate in good faith with an entity providing notice that it desires to purchase or lease the land and, if the price or terms cannot be agreed upon within a period of not less than 60 days, the agency may dispose of the land without fulfilling further requirements, as specified. Existing law authorizes a local agency selling surplus property for specified purposes, including for low- and moderate-income housing, to provide for a payment period of up to 20 years in a sales contract or trust deed. Existing law requires a local agency disposing of surplus land to give first priority in a purchase or lease to an entity agreeing to use the site for housing for persons of low or moderate income, except as specified. Existing law specifies that these and other related provisions are not to be interpreted

to empower a local agency to sell or lease surplus land at less than fair market value.

~~This bill would specify that transportation districts are included within the definition of a district with regard to requirements for the disposal of surplus land by local agencies. The~~

The bill would increase the minimum time that an agency disposing of surplus land is required to conduct negotiations from 60 to 90 days. The bill would require, if the disposed land is to be used for residential development, that the sales contract or lease agreement provide that not less than 25% of the units in the development have rents or sale prices that are affordable for persons and families of low or moderate income. The bill would permit the payment period for surplus land sold for low- and moderate-income housing purposes to exceed 20 years, subject to limits related to land use requirements for low- or moderate-income housing. The bill would revise the priority given to an entity proposing to use the site for low- and moderate-income housing to give priority to the entity agreeing to use the site for housing for which 100% of the units have rents or sales prices that are affordable for low- and moderate-income persons. The bill would delete the statement that these provisions are not to be interpreted to empower a local agency to sell or lease surplus land at less than fair market value. By increasing the duties of local officials in connection with sales and leases of surplus land, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 ~~SECTION 1. Section 54221 of the Government Code is~~
2 ~~amended to read:~~
3 ~~54221. (a) As used in this article, the term “local agency”~~
4 ~~means every city, whether organized under general law or by~~
5 ~~charter, county, city and county, and district, including~~

1 ~~transportation districts and school districts of any kind or class,~~
2 ~~empowered to acquire and hold real property.~~

3 ~~(b) As used in this article, the term “surplus land” means land~~
4 ~~owned by any local agency, that is determined to be no longer~~
5 ~~necessary for the agency’s use, except property being held by the~~
6 ~~agency for the purpose of exchange.~~

7 ~~(c) As used in this article, the term “open-space purposes” means~~
8 ~~the use of land for public recreation, enjoyment of scenic beauty,~~
9 ~~or conservation or use of natural resources.~~

10 ~~(d) As used in this article, the term “persons and families of low~~
11 ~~or moderate income” means the same as provided under Section~~
12 ~~50093 of the Health and Safety Code.~~

13 ~~(e) As used in this article, the term “exempt surplus land” means~~
14 ~~either of the following:~~

15 ~~(1) Surplus land that is transferred pursuant to Section 25539.4.~~

16 ~~(2) Surplus land that is (A) less than 5,000 square feet in area,~~
17 ~~(B) less than the minimum legal residential building lot size for~~
18 ~~the jurisdiction in which the parcel is located, or 5,000 square feet~~
19 ~~in area, whichever is less, or (C) has no record access and is less~~
20 ~~than 10,000 square feet in area; and is not contiguous to land owned~~
21 ~~by a state or local agency that is used for park, recreational,~~
22 ~~open-space, or low- and moderate-income housing purposes and~~
23 ~~is located neither within an enterprise zone pursuant to Section~~
24 ~~7073 nor a designated program area as defined in Section 7082.~~
25 ~~If the surplus land is not sold to an owner of contiguous land, it is~~
26 ~~not considered exempt surplus land and is subject to this article.~~

27 ~~(f) Notwithstanding subdivision (e), the following properties~~
28 ~~are not considered exempt surplus land and are subject to this~~
29 ~~article:~~

30 ~~(1) Lands within the coastal zone.~~

31 ~~(2) Lands within 1,000 yards of a historical unit of the State~~
32 ~~Parks System.~~

33 ~~(3) Lands within 1,000 yards of any property that has been listed~~
34 ~~on, or determined by the State Office of Historic Preservation to~~
35 ~~be eligible for, the National Register of Historic Places.~~

36 ~~(4) Lands within the Lake Tahoe region as defined in Section~~
37 ~~66905.5.~~

38 ~~SEC. 2.~~

39 ~~SECTION 1. Section 54223 of the Government Code is~~
40 ~~amended to read:~~

1 54223. After the disposing agency has received notice from
 2 the entity desiring to purchase or lease the land, the disposing
 3 agency and the entity shall enter into good faith negotiations to
 4 determine a mutually satisfactory sales price or lease terms. If the
 5 price or terms cannot be agreed upon after a good faith negotiation
 6 period of not less than 90 days, the land may be disposed of without
 7 further regard to this article. If the disposed land is to be used for
 8 residential development, including residential development with
 9 rents or sale prices that are affordable for persons or families of
 10 ~~low- or moderate-income~~, *low or moderate income*, the sales
 11 contract or lease agreement shall provide that not less than 25
 12 percent of the total number of units in the development have rents
 13 or sale prices that are affordable for persons and families of low
 14 or moderate income.

15 ~~SEC. 3.~~

16 *SEC. 2.* Section 54225 of the Government Code is amended
 17 to read:

18 54225. Any public agency selling surplus land to an entity
 19 described in Section 54222 for park or recreation purposes, for
 20 open-space purposes, for school purposes, or for low- and
 21 moderate- income housing purposes may provide for a payment
 22 period of up to 20 years in any contract of sale or sale by trust deed
 23 for the land. The payment period for surplus land sold for housing
 24 ~~for person~~ *persons* and families of low and moderate income may
 25 exceed 20 years, but the payment period shall not exceed the term
 26 that the land is required to be used for low- or moderate-income
 27 housing.

28 ~~SEC. 4.~~

29 *SEC. 3.* Section 54226 of the Government Code is amended
 30 to read:

31 54226. Nothing in this article shall be interpreted to limit the
 32 power of any local agency to sell or lease surplus land at fair market
 33 value or at less than fair market value. No provision of this article
 34 shall be applied when it conflicts with any other provision of
 35 statutory law.

36 ~~SEC. 5.~~

37 *SEC. 4.* Section 54227 of the Government Code is amended
 38 to read:

39 54227. In the event that any local agency disposing of surplus
 40 land receives offers for the purchase or lease of that land from

1 more than one of the entities to which notice and an opportunity
2 to purchase or lease shall be given pursuant to this article, the local
3 agency shall give first priority to the entity that agrees to use the
4 site for housing for which 100 percent of the units are to have rents
5 or sale prices that are affordable for persons and families of low
6 or moderate income, except that first priority shall be given to an
7 entity that agrees to use the site for park or recreational purposes
8 if the land being offered is already being used and will continue
9 to be used for park or recreational purposes, or if the land is
10 designated for park and recreational use in the local general plan
11 and will be developed for that purpose.

12 ~~SEC. 6.~~

13 *SEC. 5.* If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.