

AMENDED IN SENATE APRIL 9, 2013

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 470**

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**Introduced by Senator Wright**

February 21, 2013

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An act to add Part 4 (commencing with Section 52200) to Division 1 of Title 5 of the Government Code, relating to community development.

LEGISLATIVE COUNSEL'S DIGEST

SB 470, as amended, Wright. Community development: economic opportunity.

Existing law generally regulates the power of cities, counties, and cities and counties.

This bill would state the intent of the Legislature to promote economic development on a local level so that communities can enact local strategies to increase jobs, create economic opportunity, and generate tax revenue for all levels of government. The bill would define economic opportunity *to include certain types of agreements, purposes, and project's*, and declare that it is the policy of the state to protect and promote the sound development of economic opportunity in cities and counties, and the general welfare of the inhabitants of those communities through the employment of all appropriate means.

The bill would state that the creation of economic opportunity and the provisions for appropriate continuing land use and construction policies with respect to property acquired, in whole or in part, for economic opportunity constitute public uses and purposes for which public money may be advanced or expended and private property acquired. The bill would provide that before ~~any city or county~~ *certain*

returned city, county, or city and county property is sold or leased for development, the sale or lease shall first be approved by the legislative body, as specified. The bill would authorize a city, county, or city and county to establish a program under which it loans funds to owners or tenants for the purpose of rehabilitating commercial buildings or structures and to assist with the financing of facilities or capital equipment as part of an agreement that provides for the development or rehabilitation of property that will be used for industrial or manufacturing purposes, as specified.

This bill would authorize a city, county, or city and county to exercise authority to remedy or remove the release of hazardous substances within its boundaries consistent with state and federal laws, as specified. This bill would require a city, county, or city and county to request cleanup guidelines from the Department of Toxic Substances Control or a California regional water quality control board before taking an action under this authority, and limit the liability of a city, county, or city and county for taking an action under these provisions.

~~The bill would also authorize a city, county, or city and county to enter into a voluntary agreement with another city, county, or city and county, or a local taxing entity or joint powers authority, to jointly finance an economic opportunity project.~~

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

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

1 SECTION 1. Part 4 (commencing with Section 52200) is added  
2 to Division 1 of Title 5 of the Government Code, to read:

3

4 PART 4. ECONOMIC OPPORTUNITY

5

6 CHAPTER 1. GENERAL PROVISIONS

7

8 52200. It is the intent of the Legislature to do all of the  
9 following:

10 (a) Promote economic development on a local level so that  
11 communities can enact local strategies to increase jobs, create  
12 economic opportunity, and generate tax revenue for all levels of  
13 government.

1 (b) Give local governments tools, at no cost to the state, that  
2 allow local governments to use their funds in a manner that  
3 promotes economic opportunity.

4 (c) With the loss of redevelopment funds, cities, counties, and  
5 cities and counties need to continue certain powers afforded to  
6 redevelopment agencies that were critical to economic  
7 development, yet do not have an impact on schools and the state  
8 budget.

9 52200.2. As used in this part “economic opportunity” means  
10 any of the following:

11 (a) Development agreements or other agreements that create,  
12 retain, or expand new jobs, in which the legislative body finds that  
13 the agreement will create or retain at least one full-time equivalent,  
14 permanent job for every thirty-five thousand dollars (\$35,000) of  
15 city, county, or city and county investment in the project after full  
16 capacity and implementation.

17 (b) Development agreements that increase property tax revenues  
18 to all property tax collecting entities, in which the legislative body  
19 finds that the agreement will result in an increase of at least 15  
20 percent of total property tax resulting from the project at full  
21 implementation when compared to the year prior to the property  
22 being acquired by the government entity.

23 (c) Creation of affordable housing, if a demonstrated affordable  
24 housing need exists in the community, as defined in the approved  
25 housing element or regional housing needs assessment.

26 (d) Projects that meet the goals set forth in Chapter 728 of the  
27 Statutes of 2008 and have been included in an adopted sustainable  
28 communities strategy or alternative planning strategy or a project  
29 that specifically implements the goals of those adopted plans.

30 (e) Transit priority projects, as defined in Section 21155 of the  
31 Public Resources Code.

32 ~~(f) Development of properties that are returned to the city,  
33 county, or city and county per the long-range property management  
34 plan, as defined in subparagraph (A) of paragraph (2) of subdivision  
35 (e) of Section 34191.5 of the Health and Safety Code.~~

36 52200.4. It is declared to be the policy of the state:

37 (a) To protect and promote the sound development of economic  
38 opportunity in cities and counties and the general welfare of the  
39 inhabitants of those communities through the employment of all  
40 appropriate means.

1 (b) That whenever the creation of economic opportunity in cities  
 2 and counties cannot be accomplished by private enterprise alone,  
 3 without public participation and assistance in the acquisition of  
 4 land, in planning and in the financing of land assembly, in the  
 5 work of clearance, and in the making of improvements necessary  
 6 therefor, it is in the public interest to advance or expend public  
 7 funds for these purposes, and to provide a means by which  
 8 economic opportunity can be created.

9 (c) That the creation of economic opportunity and the provisions  
 10 for appropriate continuing land use and construction policies with  
 11 respect to property acquired, in whole or in part, for economic  
 12 opportunity constitute public uses and purposes for which public  
 13 money may be advanced or expended and private property  
 14 acquired, and are governmental functions of state concern in the  
 15 interest of health, safety, and welfare of the people of the state and  
 16 cities and counties.

17 (d) That the necessity in the public interest for the provisions  
 18 of this part is declared to be a matter of legislative determination.

19 52200.6. This chapter shall not be interpreted to authorize the  
 20 use of eminent domain for economic development purposes.

21  
 22 CHAPTER 2. SALES AND LEASES  
 23

24 52201. (a) (1) Before any city, county, or city and county  
 25 property *that is returned to the city, county, or city and county per*  
 26 *the long-range property management plan, pursuant to Section*  
 27 *34191.5 of the Health and safety Code,* is sold or leased for  
 28 economic development purposes, the sale or lease shall first be  
 29 approved by the legislative body by resolution after public hearing.  
 30 Notice of the time and place of the hearing shall be published in  
 31 a newspaper of general circulation in the community at least once  
 32 per week for at least two successive weeks, as specified in Section  
 33 6066, prior to the hearing.

34 (2) The city, county, or city and county shall make available,  
 35 for public inspection and copying at a cost not to exceed the cost  
 36 of duplication, a report no later than the time of publication of the  
 37 first notice of the hearing mandated by this section. This report  
 38 shall contain both of the following:

- 39 (A) A copy of the proposed sale or lease.
- 40 (B) A summary that describes and specifies all of the following:

1 (i) The cost of the agreement to the city, county, or city and  
2 county, including land acquisition costs, clearance costs, relocation  
3 costs, the costs of any improvements to be provided by the city,  
4 county, or city and county, plus the expected interest on any loans  
5 or bonds to finance the agreements.

6 (ii) The estimated value of the interest to be conveyed or leased,  
7 determined at the highest and best uses permitted under the general  
8 plan or zoning.

9 (iii) The estimated value of the interest to be conveyed or leased,  
10 determined at the use and with the conditions, covenants, and  
11 development costs required by the sale or lease. The purchase price  
12 or present value of the lease payments which the lessor will be  
13 required to make during the term of the lease. If the sale price or  
14 total rental amount is less than the fair market value of the interest  
15 to be conveyed or leased, determined at the highest and best use,  
16 then the city, county, or city and county shall provide as part of  
17 the summary an explanation of the reasons for the difference.

18 (iv) An explanation of why the sale or lease of the property will  
19 assist in the creation of economic opportunity, with reference to  
20 all supporting facts and materials relied upon in making this  
21 explanation.

22 (v) The report shall be made available to the public no later than  
23 the time of publication of the first notice of the hearing mandated  
24 by this section.

25 (b) The resolution approving the lease or sale shall be adopted  
26 by a majority vote unless the legislative body has provided by  
27 ordinance for a two-thirds vote for that purpose and shall contain  
28 a finding that the sale or lease of the property will assist in the  
29 creation of economic opportunity. The resolution shall also contain  
30 one of the following findings:

31 (1) The consideration is not less than the fair market value at  
32 its highest and best use.

33 (2) The consideration is not less than the fair reuse value at the  
34 use and with the covenants and conditions and development costs  
35 authorized by the sale or lease.

36 (c) *The provisions of this section are an alternative to any other*  
37 *authority granted by law to cities to dispose of city-owned property.*

38 52202. A city, county, or city and county may establish a  
39 program under which it loans funds to owners or tenants for the  
40 purpose of rehabilitating commercial buildings or structures.

1 52203. (a) As part of an agreement that provides for the  
2 development or rehabilitation of property that will be used for  
3 industrial or manufacturing purposes, a city, county, or city and  
4 county may assist with the financing of facilities or capital  
5 equipment, including, but not necessarily limited to, pollution  
6 control devices.

7 (b) Prior to entering into an agreement for a development that  
8 will be assisted pursuant to this section, a city, county, or city and  
9 county shall find, after a public hearing, that the assistance is  
10 necessary for the economic feasibility of the development and that  
11 the assistance cannot be obtained on economically feasible terms  
12 in the private market.

13

14 CHAPTER 3. OTHER PROCEDURES AND ACTIVITIES

15

16 52205. For purposes of this chapter, the following terms shall  
17 have the following meanings:

18 (a) “Department” means the Department of Toxic Substances  
19 Control.

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

21 (c) “Hazardous substance” means any hazardous substance as  
22 defined in subdivision (h) of Section 25281 *of the Health and*  
23 *Safety Code*, and any reference to hazardous substance in the  
24 definitions referenced in this section shall be deemed to refer to  
25 hazardous substance, as defined in this subdivision.

26 (d) “Local agency” means a single local agency that is one of  
27 the following:

28 (1) A local agency authorized pursuant to Section 25283 of the  
29 Health and Safety Code to implement Chapter 6.7 (commencing  
30 with Section 25280) of, and Chapter 6.75 (commencing with  
31 Section 25299.10) of, Division 20 of the Health and Safety Code.

32 (2) A local officer who is authorized pursuant to Section 101087  
33 of the Health and Safety Code to supervise a remedial action.

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

36 (1) An engineering geologist who is certified pursuant to Section  
37 7842 of the Business and Professions Code.

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

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

3 (f) “Release” means any release, as defined in Section 25320  
4 of the Health and Safety Code.

5 (g) “Remedy” or “remove” means any action to assess, evaluate,  
6 investigate, monitor, remove, correct, clean up, or abate a release  
7 of a hazardous substance or to develop plans for those actions.  
8 “Remedy” includes any action set forth in Section 25322 of the  
9 Health and Safety Code and “remove” includes any action set forth  
10 in Section 25323 of the Health and Safety Code.

11 (h) “Responsible party” means any person described in  
12 subdivision (a) of Section 25323.5 of the Health and Safety Code  
13 or subdivision (a) of Section 13304 of the Water Code.

14 52206. (a) (1) A city, county, or city and county may take any  
15 actions that the city, county, or city and county determines are  
16 necessary and that are consistent with other state and federal laws  
17 to remedy or remove a release of hazardous substances on, under,  
18 or from property within its jurisdiction, whether the city, county,  
19 or city and county owns that property or not, subject to the  
20 conditions specified in subdivision (b). Unless an administering  
21 agency has been designated under Section 25262 of the Health  
22 and Safety Code, the city, county, or city and county shall request  
23 cleanup guidelines from the department or the California regional  
24 water quality control board before taking action to remedy or  
25 remove a release. The department or the California regional water  
26 quality control board shall respond to the city’s, county’s, or city  
27 and county’s request to provide cleanup guidelines within a  
28 reasonable period of time. The city, county, or city and county  
29 shall thereafter submit for approval a cleanup or remedial action  
30 plan to the department or the California regional water quality  
31 control board before taking action to remedy or remove a release.  
32 The department or the California regional water quality control  
33 board shall respond to the city’s, county’s, or city and county’s  
34 request for approval of a cleanup or remedial action plan within a  
35 reasonable period of time.

36 (2) The city, county, or city and county shall provide the  
37 department and local health and building departments, the  
38 California regional water quality control board, with notification  
39 of any cleanup activity pursuant to this section at least 30 days  
40 before the commencement of the activity. If an action taken by a

1 city, county, or city and county or a responsible party to remedy  
2 or remove a release of a hazardous substance does not meet, or is  
3 not consistent with, a remedial action plan or cleanup plan  
4 approved by the department or the California regional water quality  
5 control board, the department or the California regional water  
6 quality control board that approved the cleanup or remedial action  
7 plan may require the city, county, or city and county to take, or  
8 cause the taking of, additional action to remedy or remove the  
9 release, as provided by applicable law. If an administering agency  
10 for the site has been designated under Section 25262 of the Health  
11 and Safety Code, any requirement for additional action may be  
12 imposed only as provided in Sections 25263 and 25265 of the  
13 Health and Safety Code. If methane or landfill gas is present, the  
14 city, county, or city and county shall obtain written approval from  
15 the California Integrated Waste Management Board prior to taking  
16 that action.

17 (b) Except as provided in subdivision (c), a city, county, or city  
18 and county may take the actions specified in subdivision (a) only  
19 under one of the following conditions:

20 (1) There is no responsible party for the release identified by  
21 the city, county, or city and county.

22 (2) A party determined by the city, county, or city and county  
23 to be a responsible party for the release has been notified by the  
24 city, county, or city and county or has received adequate notice  
25 from the department, a California regional water quality control  
26 board, the California Environmental Protection Agency, or other  
27 governmental agency with relevant authority and has been given  
28 60 days to respond and to propose a remedial action plan and  
29 schedule, and the responsible party has not agreed within an  
30 additional 60 days to implement a plan and schedule to remedy or  
31 remove the release that is acceptable to the city, county, or city  
32 and county and that has been found by the city, county, or city and  
33 county to be consistent, to the maximum extent possible, with the  
34 priorities, guidelines, criteria, and regulations contained in the  
35 National Contingency Plan and published pursuant to Section 9605  
36 of Title 42 of the United States Code for similar releases, situations,  
37 or events.

38 (3) The party determined by the city, county, or city and county  
39 to be the responsible party for the hazardous substance release  
40 entered into an agreement with the city, county, or city and county

1 to prepare a remedial action plan for approval by the department,  
2 the California regional water quality control board, or the  
3 appropriate local agency and to implement the remedial action  
4 plan in accordance with an agreed schedule, but failed to prepare  
5 the remedial action plan, failed to implement the remedial action  
6 plan in accordance with the agreed schedule, or otherwise failed  
7 to carry out the remedial action in an appropriate and timely  
8 manner. Any action taken by the city, county, or city and county  
9 pursuant to this paragraph shall be consistent with any agreement  
10 between the city, county, or city and county and the responsible  
11 party and with the requirements of the state or local agency that  
12 approved or will approve the remedial action plan and is overseeing  
13 or will oversee the preparation and implementation of the remedial  
14 action plan.

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

16 (1) A city, county, or city and county taking actions to  
17 investigate or conduct feasibility studies concerning a release.

18 (2) A city, county, or city and county taking the actions specified  
19 in subdivision (a) if the city, county, or city and county determines  
20 that conditions require immediate action.

21 (d) A city, county, or city and county may designate a local  
22 agency in lieu of the department or the California regional water  
23 quality control board to review and approve a cleanup or remedial  
24 action plan and to oversee the remediation or removal of hazardous  
25 substances from a specific hazardous substance release site in  
26 accordance with the following conditions:

27 (1) The local agency may be so designated if it is designated as  
28 the administering agency under Section 25262 of the Health and  
29 Safety Code. In that event, the local agency, as the administering  
30 agency, shall conduct the oversight of the remedial action in  
31 accordance with Chapter 6.65 (commencing with Section 25260)  
32 of Division 20 of the Health and Safety Code and all provisions  
33 of that chapter shall apply to the remedial action.

34 (2) The local agency may be so designated if cleanup guidelines  
35 were requested from a California regional water quality control  
36 board, and the site is an underground storage tank site subject to  
37 Chapter 6.7 (commencing with Section 25280) of Division 20 of  
38 the Health and Safety Code, the local agency has been certified as  
39 a certified unified program agency pursuant to Section 25404.1 of  
40 the Health and Safety Code, the State Water Resources Control

1 Board has entered into an agreement with the local agency for  
2 oversight of those sites pursuant to Section 25297.1 of the Health  
3 and Safety Code, the local agency determines that the site is within  
4 the guidelines and protocols established in, and pursuant to, that  
5 agreement, and the local agency consents to the designation.

6 (3) A local agency may not consent to the designation by a city,  
7 county, or city and county unless the local agency determines that  
8 it has adequate staff resources and the requisite technical expertise  
9 and capabilities available to adequately supervise the remedial  
10 action.

11 (4) (A) If a local agency has been designated pursuant to  
12 paragraph (2), the department or a California regional water quality  
13 control board may require that a local agency withdraw from the  
14 designation, after providing the city, county, or city and county  
15 with adequate notice, if both of the following conditions are met:

16 (i) The department or a California regional water quality control  
17 board determines that a city's, county's, or city and county's  
18 designation of a local agency was not consistent with paragraph  
19 (2), or makes one of the findings specified in subdivision (d) of  
20 Section 101480 of the Health and Safety Code.

21 (ii) The department or a California regional water quality control  
22 board determines that it has adequate staff resources and  
23 capabilities available to adequately supervise the remedial action,  
24 and it assumes that responsibility.

25 (B) This paragraph shall not prevent a California regional water  
26 quality control board from taking any action pursuant to Division  
27 7 (commencing with Section 13000) of the Water Code.

28 (5) If a local agency has been designated pursuant to paragraph  
29 (2), the local agency may, after providing the city, county, or city  
30 and county with adequate notice, withdraw from its designation  
31 after making one of the findings specified in subdivision (d) of  
32 Section 101480 of the Health and Safety Code.

33 (e) To facilitate planning, the city, county, or city and county  
34 may require the owner or operator of any site within a project area  
35 to provide the city, county, or city and county with all existing  
36 environmental information pertaining to the site, including the  
37 results of any phase I or subsequent environmental assessment, as  
38 defined in Section 25200.14 of the Health and Safety Code, any  
39 assessment conducted pursuant to an order from, or agreement  
40 with, any federal, state or local agency, and any other

1 environmental assessment information, except that which is  
2 determined to be privileged. The person requested to furnish the  
3 information shall be required only to furnish that information as  
4 may be within their possession or control, including actual  
5 knowledge of information within the possession or control of any  
6 other party. If environmental assessment information is not  
7 available, the city, county, or city and county may require the  
8 owner of the property to conduct an assessment in accordance with  
9 standard real estate practices for conducting phase I or phase II  
10 environmental assessments.

11 52207. (a) Notwithstanding any other law, a city, county, or  
12 city and county that undertakes and completes an action, or causes  
13 another person to undertake and complete an action pursuant to  
14 Section 52206, as specified in subdivision (c), to remedy or remove  
15 a hazardous substance release on, under, or from property within  
16 its jurisdiction, in accordance with a cleanup or remedial action  
17 plan prepared by a qualified independent contractor and approved  
18 by the department or a California regional water quality control  
19 board or the local agency, as appropriate, pursuant to subdivision  
20 (b), is not liable, with respect to that release only, under Division  
21 7 (commencing with Section 13000) of the Water Code or Chapter  
22 6.5 (commencing with Section 25100), Chapter 6.7 (commencing  
23 with Section 25280), Chapter 6.75 (commencing with Section  
24 25299.10), or Chapter 6.8 (commencing with Section 25300), of  
25 Division 20 of the Health and Safety Code, or any other state or  
26 local law providing liability for remedial or removal actions for  
27 releases of hazardous substances. If the remedial action was also  
28 performed pursuant to Chapter 6.65 (commencing with Section  
29 25260) of Division 20 of the Health and Safety Code, and a  
30 certificate of completion is issued pursuant to subdivision (b) of  
31 Section 25264 of the Health and Safety Code, the immunity from  
32 agency action provided by the certificate of completion, as  
33 specified in subdivision (c) of Section 25264 of the Health and  
34 Safety Code, shall apply to the city, county, or city and county, in  
35 addition to the immunity conferred by this section. In the case of  
36 a remedial action performed pursuant to Chapter 6.65 (commencing  
37 with Section 25260) of Division 20 of the Health and Safety Code,  
38 and for which the administering agency is a local agency, the  
39 limitations on the certificate of completion set forth in paragraphs  
40 (1) to (6), inclusive, of subdivision (c) of Section 25264 of the

1 Health and Safety Code are limits on any immunity provided for  
2 by this section and subdivision (c) of Section 25264 of the Health  
3 and Safety Code.

4 (b) Upon approval of any cleanup or remedial action plan,  
5 pursuant to applicable statutes and regulations, the director or the  
6 California regional water quality control board or the local agency,  
7 as appropriate, shall acknowledge, in writing, within 60 days of  
8 the date of approval, that upon proper completion of the remedial  
9 or removal action in accordance with the plan, the immunity  
10 provided by this section shall apply to the city, county, or city and  
11 county.

12 (c) Notwithstanding any other law or policy providing for  
13 certification by a person conducting a remedial or removal action  
14 that the action has been properly completed, a determination that  
15 a remedial or removal action has been properly completed pursuant  
16 to this section shall be made only upon the affirmative approval  
17 of the director or the California regional water quality control  
18 board or the local agency, as appropriate. The department,  
19 California regional water quality control board, or local agency,  
20 as appropriate, shall, within 60 days of the date it finds that a  
21 remedial action has been completed, notify the city, county, or city  
22 and county in writing that the immunity provided by this section  
23 is in effect.

24 (d) The approval of a cleanup or remedial action plan under this  
25 section by a local agency shall also be subject to the concurrent  
26 approval of the department or a California regional water quality  
27 control board when the city, county, or city and county receiving  
28 the approval formed the local agency.

29 (e) Upon proper completion of a remedial or removal action,  
30 as specified in subdivision (c), the immunity from agency action  
31 provided by the certificate of completion provided pursuant to  
32 subdivision (c) of Section 25264 of the Health and Safety Code  
33 and the immunity provided by this section extends to all of the  
34 following, but only for the release or releases specifically identified  
35 in the approved cleanup or remedial action plan and not for any  
36 subsequent release or any release not specifically identified in the  
37 approved cleanup or remedial action plan:

38 (1) Any employee or agent of the city, county, or city and  
39 county, including an instrumentality of the city, county, or city  
40 and county authorized to exercise some, or all, of the powers of a

1 city, county, or city and county and any employee or agent of the  
2 instrumentality.

3 (2) Any person who enters into an agreement with a city, county,  
4 or city and county for reuse of the property, if the agreement  
5 requires the person to acquire property affected by a hazardous  
6 substance release or to remove or remedy a hazardous substance  
7 release with respect to that property.

8 (3) Any person who acquires the property after a person has  
9 entered into an agreement with a city, county, or city and county  
10 for reuse of the property as described in paragraph (2).

11 (4) Any person who provided financing to a person specified  
12 in paragraph (2) or (3).

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

15 (1) Any person who was a responsible party for the release  
16 before entering into an agreement, acquiring property, or providing  
17 financing, as specified in subdivision (e).

18 (2) Any person specified in subdivision (a) or (e) for any  
19 subsequent release of a hazardous substance or any release of a  
20 hazardous substance not specifically identified in the approved  
21 cleanup or remedial action plan.

22 (3) Any contractor who prepares the cleanup or remedial action  
23 plan, or conducts the removal or remedial action.

24 (4) Any person who obtains an approval, as specified in  
25 subdivision (b), or a determination, as specified in subdivision (c),  
26 by fraud, negligent or intentional nondisclosure, or  
27 misrepresentation, and any person who knows before the approval  
28 or determination is obtained or before the person enters into an  
29 agreement, acquires the property or provides financing, as specified  
30 in subdivision (e), that the approval or determination was obtained  
31 by these means.

32 (g) The immunity provided by this section is in addition to any  
33 other immunity of a city, county, or city and county provided by  
34 law.

35 (h) This section shall not impair any cause of action by a city,  
36 county, or city and county or any other party against the person,  
37 firm, or entity responsible for the hazardous substance release that  
38 is the subject of the removal or remedial action taken by the city,  
39 county, or city and county or other person immune from liability  
40 pursuant to this section.

1 (i) This section shall not apply to, or limit, alter, or restrict, any  
2 action for personal injury, property damage, or wrongful death.

3 (j) This section shall not limit liability of a person described in  
4 paragraph (3) or (4) of subdivision (e) for damages under the  
5 Comprehensive Environmental Response, Compensation, and  
6 Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

7 (k) This section shall not establish, limit, or affect the liability  
8 of a city, county, or city and county for any release of a hazardous  
9 substance that is not investigated or remediated pursuant to this  
10 section or Chapter 6.65 (commencing with Section 25260) of  
11 Division 20 of the Health and Safety Code.

12 (l) The immunity provided for by this section shall only be  
13 conferred if both of the following apply:

14 (1) The action is in accordance with a cleanup or remedial action  
15 plan prepared by a qualified independent contractor and approved  
16 by the department or a California regional water quality control  
17 board or the local city, county, or city and county, as appropriate,  
18 pursuant to subdivision (b).

19 (2) The remedial or removal action is undertaken and properly  
20 completed, as specified in subdivision (c).

21 (m) The city, county, or city and county shall reimburse the  
22 department, the California regional water quality control board,  
23 and the local agency for costs incurred in reviewing or approving  
24 cleanup or remedial action plans pursuant to this section.

25 52208. (a) If a city, county, or city and county undertakes an  
26 action to remedy or remove, or to require others to remedy or  
27 remove, including compelling a responsible party through a civil  
28 action to remedy or remove, a release of hazardous substance, any  
29 responsible party or parties shall be liable to the city, county, or  
30 city and county for the costs incurred in the action. A city, county,  
31 or city and county may not recover the costs of goods and services  
32 that were not procured in accordance with applicable procurement  
33 procedures. The amount of the costs shall include the interest on  
34 the costs accrued from the date of expenditure and reasonable  
35 attorney's fees and shall be recoverable in a civil action. Interest  
36 shall be calculated based on the average annual rate of return on  
37 a city's, county's, or city and county's investment of surplus funds  
38 for the fiscal year in which costs were incurred.

1 (b) The only defenses available to a responsible party shall be  
2 the defenses specified in subdivision (b) of Section 25323.5 of the  
3 Health and Safety Code.

4 (c) A city, county, or city and county may recover any costs  
5 incurred to develop and to implement a cleanup or remedial action  
6 plan approved pursuant to Sections 52206 and 52207, to the same  
7 extent the department is authorized to recover those costs. The  
8 scope and standard of liability for cost recovery pursuant to this  
9 section shall be the scope and standard of liability under the  
10 Comprehensive Environmental Response, Compensation, and  
11 Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.)  
12 as that act would apply to the department; provided, however, that  
13 any reference to hazardous substance therein shall be deemed to  
14 refer to hazardous substance as defined in subdivision (c) of Section  
15 52205.

16 (d) An action for recovery of costs of a remedy or removal  
17 undertaken by a city, county, or city and county under this section  
18 shall be commenced within three years after completion of the  
19 remedy or removal.

20 (e) The action to recover costs provided by this section is in  
21 addition to, and is not to be construed as restricting, any other  
22 cause of action available to a city, county, or city and county.

23 (f) Except as provided in subdivision (m) of Section 52207,  
24 notwithstanding any other provision of state law or policy, a city,  
25 county, or city and county that undertakes and completes a remedial  
26 action, or otherwise causes a remedial action to be undertaken and  
27 completed pursuant to Sections 52206 and 52207, shall not be  
28 liable, based on its ownership of property after a release occurred,  
29 for any costs that any responsible party for that release incurs to  
30 investigate or remediate the release or to compensate others for  
31 the effects of that release.

32 52209. Except as provided in Section 52207, nothing in this  
33 chapter shall limit the powers of the State Water Resources Control  
34 Board or a California regional water quality control board to  
35 enforce Division 7 (commencing with Section 13000) of the Water  
36 Code.

1           ~~CHAPTER 4. VOLUNTARY TAX-SHARING AGREEMENTS~~

2  
3       ~~52210. (a) A city, county, or city and county may enter into~~  
4 ~~a voluntary agreement with another city, county, or city and county,~~  
5 ~~or a local taxing entity or joint powers authority, to jointly finance~~  
6 ~~a project authorized by Section 52200.4.~~

7       ~~(b) This section shall not authorize a city, county, or city and~~  
8 ~~county to collect and spend tax dollars from another jurisdiction~~  
9 ~~without their written consent.~~