

AMENDED IN ASSEMBLY AUGUST 21, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 9, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 470

Introduced by Senator Wright

February 21, 2013

An act to add Part 4 (commencing with Section 52200) to Division 1 of Title 5 of the Government Code, and to amend Sections 33459, 33459.1, 33459.3, and 33459.8 of the Health and Safety 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 projects, 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 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.

Existing law, the Polanco Redevelopment Act, authorizes a former redevelopment agency to take any action that the agency determines is necessary, consistent with other state and federal laws, to remedy or remove a release of hazardous substances on, under, or from a project area, subject to specified conditions. Existing law requires agencies to request cleanup guidelines from the department or the California regional water quality control board before taking action to remedy or remove a release, immunizes an agency that remedies or removes a hazardous substance release from liability under specified state laws, and authorizes the recovery of cleanup and remedial costs from the liable party.

This bill would revise the definition of agency as used in the Polanco Redevelopment Act to include a city, county, or city and county, and authorize a city, county, or city and county to exercise authority under these provisions to remedy or remove the release of hazardous substances from property within its jurisdiction that previously was within the jurisdiction of a former redevelopment agency, consistent with state and federal laws, as specified. The bill would also make other conforming changes.

This bill would incorporate additional changes to Section 33459 of the Health and Safety Code made by AB 229 and AB 243, to become operative if AB 229 or AB 243, or both, and this bill become effective on or before January 1, 2014, and this bill is enacted last.

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.

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

17 (c) With the loss of redevelopment funds, cities, counties, and
18 cities and counties need to continue certain powers afforded to
19 redevelopment agencies that were critical to economic
20 development, yet do not have an impact on schools and the state
21 budget.

22 52200.2. As used in this part “economic opportunity” means
23 any of the following:

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

30 (b) Development agreements that increase property tax revenues
31 to all property tax collecting entities, in which the legislative body
32 finds that the agreement will result in an increase of at least 15
33 percent of total property tax resulting from the project at full
34 implementation when compared to the year prior to the property
35 being acquired by the government entity.

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

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

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

7 52200.4. It is declared to be the policy of the state:

8 (a) To protect and promote the sound development of economic
9 opportunity in cities and counties and the general welfare of the
10 inhabitants of those communities through the employment of all
11 appropriate means.

12 (b) That whenever the creation of economic opportunity in cities
13 and counties cannot be accomplished by private enterprise alone,
14 without public participation and assistance in the acquisition of
15 land, in planning and in the financing of land assembly, in the
16 work of clearance, and in the making of improvements necessary
17 therefor, it is in the public interest to advance or expend public
18 funds for these purposes, and to provide a means by which
19 economic opportunity can be created.

20 (c) That the creation of economic opportunity and the provisions
21 for appropriate continuing land use and construction policies with
22 respect to property acquired, in whole or in part, for economic
23 opportunity constitute public uses and purposes for which public
24 money may be advanced or expended and private property
25 acquired, and are governmental functions of state concern in the
26 interest of health, safety, and welfare of the people of the state and
27 cities and counties.

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

30 52200.6. This chapter shall not be interpreted to authorize the
31 use of eminent domain for economic development purposes.

32

33

CHAPTER 2. SALES AND LEASES

34

35 52201. (a) (1) Before any city, county, or city and county
36 property that is returned to the city, county, or city and county per
37 the long-range property management plan, pursuant to Section
38 34191.5 of the Health and Safety Code, is sold or leased for
39 economic development purposes, the sale or lease shall first be
40 approved by the legislative body by resolution after public hearing.

1 Notice of the time and place of the hearing shall be published in
2 a newspaper of general circulation in the community at least once
3 per week for at least two successive weeks, as specified in Section
4 6066, prior to the hearing.

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

10 (A) A copy of the proposed sale or lease.

11 (B) A summary that describes and specifies all of the following:

12 (i) The cost of the agreement to the city, county, or city and
13 county, including land acquisition costs, clearance costs, relocation
14 costs, the costs of any improvements to be provided by the city,
15 county, or city and county, plus the expected interest on any loans
16 or bonds to finance the agreements.

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

20 (iii) The estimated value of the interest to be conveyed or leased,
21 determined at the use and with the conditions, covenants, and
22 development costs required by the sale or lease. The purchase price
23 or present value of the lease payments which the lessor will be
24 required to make during the term of the lease. If the sale price or
25 total rental amount is less than the fair market value of the interest
26 to be conveyed or leased, determined at the highest and best use,
27 then the city, county, or city and county shall provide as part of
28 the summary an explanation of the reasons for the difference.

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

33 (b) The resolution approving the lease or sale shall be adopted
34 by a majority vote unless the legislative body has provided by
35 ordinance for a two-thirds vote for that purpose and shall contain
36 a finding that the sale or lease of the property will assist in the
37 creation of economic opportunity. The resolution shall also contain
38 one of the following findings:

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

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

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

6 52202. A city, county, or city and county may establish a
7 program under which it loans funds to owners or tenants for the
8 purpose of rehabilitating commercial buildings or structures.

9 52203. (a) As part of an agreement that provides for the
10 development or rehabilitation of property that will be used for
11 industrial or manufacturing purposes, a city, county, or city and
12 county may assist with the financing of facilities or capital
13 equipment, including, but not necessarily limited to, pollution
14 control devices.

15 (b) Prior to entering into an agreement for a development that
16 will be assisted pursuant to this section, a city, county, or city and
17 county shall find, after a public hearing, that the assistance is
18 necessary for the economic feasibility of the development and that
19 the assistance cannot be obtained on economically feasible terms
20 in the private market.

21 SEC. 2. Section 33459 of the Health and Safety Code is
22 amended to read:

23 33459. For purposes of this article, the following terms shall
24 have the following meanings:

25 (a) "Agency" includes a former redevelopment agency as
26 defined in Section 33003 and a city, county, or city and county.

27 (b) "Department" means the Department of Toxic Substances
28 Control.

29 (c) "Director" means the Director of Toxic Substances Control.

30 (d) "Hazardous substance" means any hazardous substance as
31 defined in subdivision (h) of Section 25281, and any reference to
32 hazardous substance in the definitions referenced in this section
33 shall be deemed to refer to hazardous substance, as defined in this
34 subdivision.

35 (e) "Local agency" means a single local agency that is one of
36 the following:

37 (1) A local agency authorized pursuant to Section 25283 to
38 implement Chapter 6.7 (commencing with Section 25280) of, and
39 Chapter 6.75 (commencing with Section 25299.10) of, Division
40 20.

1 (2) A local officer who is authorized pursuant to Section 101087
2 to supervise a remedial action.

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

5 (1) An engineering geologist who is certified pursuant to Section
6 7842 of the Business and Professions Code.

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

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

11 (g) “Release” means any release, as defined in Section 25320.

12 (h) “Remedy” or “remove” means any action to assess, evaluate,
13 investigate, monitor, remove, correct, clean up, or abate a release
14 of a hazardous substance or to develop plans for those actions.
15 “Remedy” includes any action set forth in Section 25322 and
16 “remove” includes any action set forth in Section 25323.

17 (i) “Responsible party” means any person described in
18 subdivision (a) of Section 25323.5 of this code or subdivision (a)
19 of Section 13304 of the Water Code.

20 *SEC. 2.5. Section 33459 of the Health and Safety Code is*
21 *amended to read:*

22 33459. For purposes of this article, the following terms shall
23 have the following meanings:

24 (a) “Agency” includes a former redevelopment agency as
25 defined in Section 33003 and a city, county, or city and county.

26 (a)

27 (b) “Department” means the Department of Toxic Substances
28 Control.

29 (b)

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

31 (c)

32 (d) “Hazardous substance” means any hazardous substance as
33 defined in subdivision (h) of Section 25281, and any reference to
34 hazardous substance in the definitions referenced in this section
35 shall be deemed to refer to hazardous substance, as defined in this
36 subdivision.

37 (d)

38 (e) “Local agency” means a single local agency that is one of
39 the following:

1 (1) A local agency authorized pursuant to Section 25283 to
 2 implement Chapter 6.7 (commencing with Section 25280) of, and
 3 Chapter 6.75 (commencing with Section 25299.10) of, Division
 4 20.

5 (2) A local officer who is authorized pursuant to Section 101087
 6 to supervise a remedial action.

7 (3) *An infrastructure and revitalization financing district created*
 8 *pursuant to Chapter 2.6 (commencing with Section 53369) or*
 9 *Chapter 2.10 (commencing with Section 53399) of Part 1 of*
 10 *Division 2 of Title 5 of the Government Code.*

11 ~~(e)~~

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

14 (1) An engineering geologist who is certified pursuant to Section
 15 7842 of the Business and Professions Code.

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

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

20 ~~(f)~~

21 (g) “Release” means any release, as defined in Section 25320.

22 ~~(g)~~

23 (h) “Remedy” or “remove” means any action to assess, evaluate,
 24 investigate, monitor, remove, correct, clean up, or abate a release
 25 of a hazardous substance or to develop plans for those actions.
 26 “Remedy” includes any action set forth in Section 25322 and
 27 “remove” includes any action set forth in Section 25323.

28 ~~(h)~~

29 (i) “Responsible party” means any person described in
 30 subdivision (a) of Section 25323.5 of this code or subdivision (a)
 31 of Section 13304 of the Water Code.

32 SEC. 3. Section 33459.1 of the Health and Safety Code is
 33 amended to read:

34 33459.1. (a) (1) An agency may take any actions that the
 35 agency determines are necessary and that are consistent with other
 36 state and federal laws to remedy or remove a release of hazardous
 37 substances on, under, or from property within a project area or
 38 property within its jurisdiction that previously was within the
 39 jurisdiction of a former redevelopment agency, whether the agency
 40 owns that property or not, subject to the conditions specified in

1 subdivision (b). Unless an administering agency has been
2 designated under Section 25262, the agency shall request cleanup
3 guidelines from the department or the California regional water
4 quality control board before taking action to remedy or remove a
5 release. The department or the California regional water quality
6 control board shall respond to the agency's request to provide
7 cleanup guidelines within a reasonable period of time. The agency
8 shall thereafter submit for approval a cleanup or remedial action
9 plan to the department or the California regional water quality
10 control board before taking action to remedy or remove a release.
11 The department or the California regional water quality control
12 board shall respond to the agency's request for approval of a
13 cleanup or remedial action plan within a reasonable period of time.

14 (2) The agency shall provide the ~~department and~~ *department*,
15 local health and building departments, *and* the California regional
16 water quality control board, with notification of any cleanup
17 activity pursuant to this section at least 30 days before the
18 commencement of the activity. If an action taken by an agency or
19 a responsible party to remedy or remove a release of a hazardous
20 substance does not meet, or is not consistent with, a remedial action
21 plan or cleanup plan approved by the department or the California
22 regional water quality control board, the department or the
23 California regional water quality control board that approved the
24 cleanup or remedial action plan may require the agency to take,
25 or cause the taking of, additional action to remedy or remove the
26 release, as provided by applicable law. If an administering agency
27 for the site has been designated under Section 25262, any
28 requirement for additional action may be imposed only as provided
29 in Sections 25263 and 25265. If methane or landfill gas is present,
30 the agency shall obtain written approval from the California
31 Integrated Waste Management Board prior to taking that action.

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

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

37 (2) A party determined by the agency to be a responsible party
38 for the release has been notified by the agency or has received
39 adequate notice from the department, a California regional water
40 quality control board, the *California* Environmental Protection

1 Agency, or other governmental agency with relevant authority and
2 has been given 60 days to respond and to propose a remedial action
3 plan and schedule, and the responsible party has not agreed within
4 an additional 60 days to implement a plan and schedule to remedy
5 or remove the release that is acceptable to the agency and that has
6 been found by the agency to be consistent, to the maximum extent
7 possible, with the priorities, guidelines, criteria, and regulations
8 contained in the National Contingency Plan and published pursuant
9 to Section 9605 of Title 42 of the United States Code for similar
10 releases, situations, or events.

11 (3) The party determined by the agency to be the responsible
12 party for the hazardous substance release entered into an agreement
13 with the agency to prepare a remedial action plan for approval by
14 the department, the California regional water quality control board,
15 or the appropriate local agency and to implement the remedial
16 action plan in accordance with an agreed schedule, but failed to
17 prepare the remedial action plan, failed to implement the remedial
18 action plan in accordance with the agreed schedule, or otherwise
19 failed to carry out the remedial action in an appropriate and timely
20 manner. Any action taken by the agency pursuant to this paragraph
21 shall be consistent with any agreement between the agency and
22 the responsible party and with the requirements of the state or local
23 agency that approved or will approve the remedial action plan and
24 is overseeing or will oversee the preparation and implementation
25 of the remedial action plan.

26 (c) Subdivision (b) does not apply to either of the following
27 agencies:

28 (1) An agency taking actions to investigate or conduct feasibility
29 studies concerning a release.

30 (2) An agency taking the actions specified in subdivision (a) if
31 the agency determines that conditions require immediate action.

32 (d) An agency may designate a local agency in lieu of the
33 department or the California regional water quality control board
34 to review and approve a cleanup or remedial action plan and to
35 oversee the remediation or removal of hazardous substances from
36 a specific hazardous substance release site in accordance with the
37 following conditions:

38 (1) The local agency may be so designated if it is designated as
39 the administering agency under Section 25262. In that event, the
40 local agency, as the administering agency, shall conduct the

1 oversight of the remedial action in accordance with Chapter 6.65
2 (commencing with Section 25260) and all provisions of that chapter
3 shall apply to the remedial action.

4 (2) The local agency may be so designated if cleanup guidelines
5 were requested from a California regional water quality control
6 board, and the site is an underground storage tank site subject to
7 Chapter 6.7 (commencing with Section 25280) of Division 20, the
8 local agency has been certified as a certified unified program
9 agency pursuant to Section 25404.1, the State Water Resources
10 Control Board has entered into an agreement with the local agency
11 for oversight of those sites pursuant to Section 25297.1, the local
12 agency determines that the site is within the guidelines and
13 protocols established in, and pursuant to, that agreement, and the
14 local agency consents to the designation.

15 (3) A local agency may not consent to the designation by an
16 agency unless the local agency determines that it has adequate
17 staff resources and the requisite technical expertise and capabilities
18 available to adequately supervise the remedial action.

19 (4) (A) Where a local agency has been designated pursuant to
20 paragraph (2), the department or a California regional water quality
21 control board may require that a local agency withdraw from the
22 designation, after providing the agency with adequate notice, if
23 both of the following conditions are met:

24 (i) The department or a California regional water quality control
25 board determines that an agency's designation of a local agency
26 was not consistent with paragraph (2), or makes one of the findings
27 specified in subdivision (d) of Section 101480.

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

32 (B) Nothing in this paragraph prevents a California regional
33 water quality control board from taking any action pursuant to
34 Division 7 (commencing with Section 13000) of the Water Code.

35 (5) Where a local agency has been designated pursuant to
36 paragraph (2), the local agency may, after providing the agency
37 with adequate notice, withdraw from its designation after making
38 one of the findings specified in subdivision (d) of Section 101480.

39 (e) To facilitate redevelopment planning, the agency may require
40 the owner or operator of any site within a project area or its

1 jurisdiction to provide the agency with all existing environmental
2 information pertaining to the site, including the results of any Phase
3 I or subsequent environmental assessment, as defined in Section
4 25200.14, any assessment conducted pursuant to an order from,
5 or agreement with, any federal, state, or local agency, and any
6 other environmental assessment information, except that which is
7 determined to be privileged. The person requested to furnish the
8 information shall be required only to furnish that information as
9 may be within their possession or control, including actual
10 knowledge of information within the possession or control of any
11 other party. If environmental assessment information is not
12 available, the agency may require the owner of the property to
13 conduct an assessment in accordance with standard real estate
14 practices for conducting phase I or phase II environmental
15 assessments.

16 SEC. 4. Section 33459.3 of the Health and Safety Code is
17 amended to read:

18 33459.3. (a) Notwithstanding any other provision of law,
19 except as provided in Section 33459.7, an agency that undertakes
20 and completes an action, or causes another person to undertake
21 and complete an action pursuant to Section 33459.1, as specified
22 in subdivision (c), to remedy or remove a hazardous substance
23 release on, under, or from property within a redevelopment project,
24 in accordance with a cleanup or remedial action plan prepared by
25 a qualified independent contractor and approved by the department
26 or a California regional water quality control board or the local
27 agency, as appropriate, pursuant to subdivision (b), is not liable,
28 with respect to that release only, under Division 7 (commencing
29 with Section 13000) of the Water Code or Chapter 6.5
30 (commencing with Section 25100), Chapter 6.7 (commencing with
31 Section 25280), Chapter 6.75 (commencing with Section
32 25299.10), or Chapter 6.8 (commencing with Section 25300), of
33 Division 20 of this code, or any other state or local law providing
34 liability for remedial or removal actions for releases of hazardous
35 substances. If the remedial action was also performed pursuant to
36 Chapter 6.65 (commencing with Section 25260) of Division 20,
37 and a certificate of completion is issued pursuant to subdivision
38 (b) of Section 25264, the immunity from agency action provided
39 by the certificate of completion, as specified in subdivision (c) of
40 Section 25264, shall apply to the agency, in addition to the

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

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

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

26 (d) The approval of a cleanup or remedial action plan under this
27 section by a local agency shall also be subject to the concurrent
28 approval of the department or a California regional water quality
29 control board when the agency receiving the approval was formed
30 by the same entity of which the local agency is a part.

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

1 (1) Any employee or agent of the agency, including an
2 instrumentality of the agency authorized to exercise some, or all,
3 of the powers of an agency within, or for the benefit of, a
4 redevelopment project or its jurisdiction, and any employee or
5 agent of the instrumentality.

6 (2) Any person who enters into an agreement with an agency
7 for the redevelopment of property, if the agreement requires the
8 person to acquire property affected by a hazardous substance
9 release or to remove or remedy a hazardous substance release with
10 respect to that property.

11 (3) Any person who acquires the property after a person has
12 entered into an agreement with an agency for redevelopment of
13 the property as described in paragraph (2).

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

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

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

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

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

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

35 (g) The immunity provided by this section is in addition to any
36 other immunity of an agency provided by law.

37 (h) This section does not impair any cause of action by an
38 agency or any other party against the person, firm, or entity
39 responsible for the hazardous substance release which is the subject

1 of the removal or remedial action taken by the agency or other
2 person immune from liability pursuant to this section.

3 (i) This section does not apply to, or limit, alter, or restrict, any
4 action for personal injury, property damage, or wrongful death.

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

10 (k) This section does not establish, limit, or affect the liability
11 of an agency for any release of a hazardous substance that is not
12 investigated or remediated pursuant to this section or Chapter 6.65
13 (commencing with Section 25260) of Division 20.

14 (l) The immunity provided for by this section is only conferred
15 if both of the following apply:

16 (1) The action is 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).

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

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

27 SEC. 5. Section 33459.8 of the Health and Safety Code is
28 amended to read:

29 33459.8. If an agency undertakes any action to remedy or
30 remove a release of hazardous substances on, under, or from
31 property within a project area or property within its jurisdiction
32 that previously was within the jurisdiction of a former
33 redevelopment agency, the agency shall, if it is required to have
34 a redevelopment plan, amend its redevelopment plan and follow
35 the same procedure, as specified, and the legislative body is subject
36 to the same restrictions as provided for in Article 4 (commencing
37 with Section 33330), for the adoption of a redevelopment plan, if
38 the agency determines that as a result of the remedial or removal
39 action, it will also be taking any of the following actions:

40 (a) Proposing to add new territory to a project area.

1 (b) Increasing either the limitation on the amount of funds to
2 be allocated to the agency or the time limit on the establishing of
3 loans, advances, and indebtedness established pursuant to
4 subdivisions ~~(1)~~ (b) and ~~(2)~~ (c) of Section 33333.2.

5 (c) Lengthening the period during which the redevelopment
6 plan is effective.

7 (d) Merging project areas.

8 (e) Adding significant additional capital improvement projects.

9 *SEC. 6. Section 2.5 of this bill incorporates amendments to*
10 *Section 33459 of the Health and Safety Code proposed by this bill,*
11 *Assembly Bill 229, and Assembly Bill 243. It shall become*
12 *operative only if any of the following occur:*

13 *(1) Assembly Bill 229 and this bill are enacted and become*
14 *effective on or before January 1, 2014, each bill amends Section*
15 *33459 of the Health and Safety Code, and this bill is enacted after*
16 *Assembly Bill 229, in which case Section 2 of this bill shall not*
17 *become operative.*

18 *(2) Assembly Bill 243 and this bill are enacted and become*
19 *effective on or before January 1, 2014, each bill amends Section*
20 *33459 of the Health and Safety Code, and this bill is enacted after*
21 *Assembly Bill 243, in which case Section 2 of this bill shall not*
22 *become operative.*

23 *(3) Assembly Bill 229, Assembly Bill 243, and this bill are*
24 *enacted and become effective on or before January 1, 2014, each*
25 *bill amends Section 33459 of the Health and Safety Code, and this*
26 *bill is enacted after Assembly Bill 229 and Assembly Bill 243, in*
27 *which case Section 2 of this bill shall not become operative.*

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