

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

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~~ *add Section 34176.6 to* 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 *authorize a city, county, or city and county to utilize* 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 with respect to property that is within the boundaries of a former redevelopment agency.~~

~~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

1 implementation when compared to the year prior to the property
2 being acquired by the government entity.

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

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

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

12 52200.4. It is declared to be the policy of the state:

13 (a) To protect and promote the sound development of economic
14 opportunity in cities and counties and the general welfare of the
15 inhabitants of those communities through the employment of all
16 appropriate means.

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

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

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

35 52200.6. This chapter shall not be interpreted to authorize the
36 use of eminent domain for economic development purposes.

CHAPTER 2. SALES AND LEASES

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

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

- (A) A copy of the proposed sale or lease.
- (B) A summary that describes and specifies all of the following:
 - (i) The cost of the agreement to the city, county, or city and county, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the city, county, or city and county, plus the expected interest on any loans or bonds to finance the agreements.
 - (ii) The estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the general plan or zoning.
 - (iii) The estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease. The purchase price or present value of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use, then the city, county, or city and county shall provide as part of the summary an explanation of the reasons for the difference.
 - (iv) An explanation of why the sale or lease of the property will assist in the creation of economic opportunity, with reference to all supporting facts and materials relied upon in making this explanation.

1 (b) The resolution approving the lease or sale shall be adopted
2 by a majority vote unless the legislative body has provided by
3 ordinance for a two-thirds vote for that purpose and shall contain
4 a finding that the sale or lease of the property will assist in the
5 creation of economic opportunity. The resolution shall also contain
6 one of the following findings:

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

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

12 (c) The provisions of this section are an alternative to any other
13 authority granted by law to cities to dispose of city-owned property.
14 52202. A city, county, or city and county may establish a
15 program under which it loans funds to owners or tenants for the
16 purpose of rehabilitating commercial buildings or structures.

17 52203. (a) As part of an agreement that provides for the
18 development or rehabilitation of property that will be used for
19 industrial or manufacturing purposes, a city, county, or city and
20 county may assist with the financing of facilities or capital
21 equipment, including, but not necessarily limited to, pollution
22 control devices.

23 (b) Prior to entering into an agreement for a development that
24 will be assisted pursuant to this section, a city, county, or city and
25 county shall find, after a public hearing, that the assistance is
26 necessary for the economic feasibility of the development and that
27 the assistance cannot be obtained on economically feasible terms
28 in the private market.

29 *SEC. 2. Section 34176.6 is added to the Health and Safety*
30 *Code, to read:*

31 *34176.6. Notwithstanding any other law, a city, county, or city*
32 *and county may utilize the Polanco Redevelopment Act (Article*
33 *12.5 (commencing with Section 33459) of Part 1 of Division 24)*
34 *with respect to property that is located within the boundaries of*
35 *a former redevelopment agency.*

36 ~~SEC. 2. Section 33459 of the Health and Safety Code is~~
37 ~~amended to read:~~

38 ~~33459. For purposes of this article, the following terms shall~~
39 ~~have the following meanings:~~

- 1 (a) ~~“Agency” includes a former redevelopment agency as~~
- 2 ~~defined in Section 33003 and a city, county, or city and county.~~
- 3 (b) ~~“Department” means the Department of Toxic Substances~~
- 4 ~~Control.~~
- 5 (c) ~~“Director” means the Director of Toxic Substances Control.~~
- 6 (d) ~~“Hazardous substance” means any hazardous substance as~~
- 7 ~~defined in subdivision (h) of Section 25281, and any reference to~~
- 8 ~~hazardous substance in the definitions referenced in this section~~
- 9 ~~shall be deemed to refer to hazardous substance, as defined in this~~
- 10 ~~subdivision.~~
- 11 (e) ~~“Local agency” means a single local agency that is one of~~
- 12 ~~the following:~~
- 13 (1) ~~A local agency authorized pursuant to Section 25283 to~~
- 14 ~~implement Chapter 6.7 (commencing with Section 25280) of, and~~
- 15 ~~Chapter 6.75 (commencing with Section 25299.10) of, Division~~
- 16 ~~20.~~
- 17 (2) ~~A local officer who is authorized pursuant to Section 101087~~
- 18 ~~to supervise a remedial action.~~
- 19 (f) ~~“Qualified independent contractor” means an independent~~
- 20 ~~contractor who is any of the following:~~
- 21 (1) ~~An engineering geologist who is certified pursuant to Section~~
- 22 ~~7842 of the Business and Professions Code.~~
- 23 (2) ~~A geologist who is registered pursuant to Section 7850 of~~
- 24 ~~the Business and Professions Code.~~
- 25 (3) ~~A civil engineer who is registered pursuant to Section 6762~~
- 26 ~~of the Business and Professions Code.~~
- 27 (g) ~~“Release” means any release, as defined in Section 25320.~~
- 28 (h) ~~“Remedy” or “remove” means any action to assess, evaluate,~~
- 29 ~~investigate, monitor, remove, correct, clean up, or abate a release~~
- 30 ~~of a hazardous substance or to develop plans for those actions.~~
- 31 ~~“Remedy” includes any action set forth in Section 25322 and~~
- 32 ~~“remove” includes any action set forth in Section 25323.~~
- 33 (i) ~~“Responsible party” means any person described in~~
- 34 ~~subdivision (a) of Section 25323.5 of this code or subdivision (a)~~
- 35 ~~of Section 13304 of the Water Code.~~
- 36 ~~SEC. 2.5. Section 33459 of the Health and Safety Code is~~
- 37 ~~amended to read:~~
- 38 ~~33459. For purposes of this article, the following terms shall~~
- 39 ~~have the following meanings:~~

- 1 (a) ~~“Agency” includes a former redevelopment agency as~~
 2 ~~defined in Section 33003 and a city, county, or city and county.~~
- 3 (b) ~~“Department” means the Department of Toxic Substances~~
 4 ~~Control.~~
- 5 (c) ~~“Director” means the Director of Toxic Substances Control.~~
- 6 (d) ~~“Hazardous substance” means any hazardous substance as~~
 7 ~~defined in subdivision (h) of Section 25281, and any reference to~~
 8 ~~hazardous substance in the definitions referenced in this section~~
 9 ~~shall be deemed to refer to hazardous substance, as defined in this~~
 10 ~~subdivision.~~
- 11 (e) ~~“Local agency” means a single local agency that is one of~~
 12 ~~the following:~~
 - 13 (1) ~~A local agency authorized pursuant to Section 25283 to~~
 14 ~~implement Chapter 6.7 (commencing with Section 25280) of, and~~
 15 ~~Chapter 6.75 (commencing with Section 25299.10) of, Division~~
 16 ~~20.~~
 - 17 (2) ~~A local officer who is authorized pursuant to Section 101087~~
 18 ~~to supervise a remedial action.~~
 - 19 (3) ~~An infrastructure and revitalization financing district created~~
 20 ~~pursuant to Chapter 2.6 (commencing with Section 53369) or~~
 21 ~~Chapter 2.10 (commencing with Section 53399) of Part 1 of~~
 22 ~~Division 2 of Title 5 of the Government Code.~~
- 23 (f) ~~“Qualified independent contractor” means an independent~~
 24 ~~contractor who is any of the following:~~
 - 25 (1) ~~An engineering geologist who is certified pursuant to Section~~
 26 ~~7842 of the Business and Professions Code.~~
 - 27 (2) ~~A geologist who is registered pursuant to Section 7850 of~~
 28 ~~the Business and Professions Code.~~
 - 29 (3) ~~A civil engineer who is registered pursuant to Section 6762~~
 30 ~~of the Business and Professions Code.~~
- 31 (g) ~~“Release” means any release, as defined in Section 25320.~~
- 32 (h) ~~“Remedy” or “remove” means any action to assess, evaluate,~~
 33 ~~investigate, monitor, remove, correct, clean up, or abate a release~~
 34 ~~of a hazardous substance or to develop plans for those actions.~~
 35 ~~“Remedy” includes any action set forth in Section 25322 and~~
 36 ~~“remove” includes any action set forth in Section 25323.~~
- 37 (i) ~~“Responsible party” means any person described in~~
 38 ~~subdivision (a) of Section 25323.5 of this code or subdivision (a)~~
 39 ~~of Section 13304 of the Water Code.~~

1 ~~SEC. 3.—Section 33459.1 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~33459.1. (a) (1) An agency may take any actions that the~~
4 ~~agency determines are necessary and that are consistent with other~~
5 ~~state and federal laws to remedy or remove a release of hazardous~~
6 ~~substances on, under, or from property within a project area or~~
7 ~~property within its jurisdiction that previously was within the~~
8 ~~jurisdiction of a former redevelopment agency, whether the agency~~
9 ~~owns that property or not, subject to the conditions specified in~~
10 ~~subdivision (b). Unless an administering agency has been~~
11 ~~designated under Section 25262, the agency shall request cleanup~~
12 ~~guidelines from the department or the California regional water~~
13 ~~quality control board before taking action to remedy or remove a~~
14 ~~release. The department or the California regional water quality~~
15 ~~control board shall respond to the agency's request to provide~~
16 ~~cleanup guidelines within a reasonable period of time. The agency~~
17 ~~shall thereafter submit for approval a cleanup or remedial action~~
18 ~~plan to the department or the California regional water quality~~
19 ~~control board before taking action to remedy or remove a release.~~
20 ~~The department or the California regional water quality control~~
21 ~~board shall respond to the agency's request for approval of a~~
22 ~~cleanup or remedial action plan within a reasonable period of time.~~

23 ~~(2) The agency shall provide the department, local health and~~
24 ~~building departments, and the California regional water quality~~
25 ~~control board, with notification of any cleanup activity pursuant~~
26 ~~to this section at least 30 days before the commencement of the~~
27 ~~activity. If an action taken by an agency or a responsible party to~~
28 ~~remedy or remove a release of a hazardous substance does not~~
29 ~~meet, or is not consistent with, a remedial action plan or cleanup~~
30 ~~plan approved by the department or the California regional water~~
31 ~~quality control board, the department or the California regional~~
32 ~~water quality control board that approved the cleanup or remedial~~
33 ~~action plan may require the agency to take, or cause the taking of,~~
34 ~~additional action to remedy or remove the release, as provided by~~
35 ~~applicable law. If an administering agency for the site has been~~
36 ~~designated under Section 25262, any requirement for additional~~
37 ~~action may be imposed only as provided in Sections 25263 and~~
38 ~~25265. If methane or landfill gas is present, the agency shall obtain~~
39 ~~written approval from the California Integrated Waste Management~~
40 ~~Board prior to taking that action.~~

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

4 ~~(1) There is no responsible party for the release identified by~~
5 ~~the agency.~~

6 ~~(2) A party determined by the agency to be a responsible party~~
7 ~~for the release has been notified by the agency or has received~~
8 ~~adequate notice from the department, a California regional water~~
9 ~~quality control board, the California Environmental Protection~~
10 ~~Agency, or other governmental agency with relevant authority and~~
11 ~~has been given 60 days to respond and to propose a remedial action~~
12 ~~plan and schedule, and the responsible party has not agreed within~~
13 ~~an additional 60 days to implement a plan and schedule to remedy~~
14 ~~or remove the release that is acceptable to the agency and that has~~
15 ~~been found by the agency to be consistent, to the maximum extent~~
16 ~~possible, with the priorities, guidelines, criteria, and regulations~~
17 ~~contained in the National Contingency Plan and published pursuant~~
18 ~~to Section 9605 of Title 42 of the United States Code for similar~~
19 ~~releases, situations, or events.~~

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

35 ~~(c) Subdivision (b) does not apply to either of the following~~
36 ~~agencies:~~

37 ~~(1) An agency taking actions to investigate or conduct feasibility~~
38 ~~studies concerning a release.~~

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

1 ~~(d) An agency may designate a local agency in lieu of the~~
2 ~~department or the California regional water quality control board~~
3 ~~to review and approve a cleanup or remedial action plan and to~~
4 ~~oversee the remediation or removal of hazardous substances from~~
5 ~~a specific hazardous substance release site in accordance with the~~
6 ~~following conditions:~~

7 ~~(1) The local agency may be so designated if it is designated as~~
8 ~~the administering agency under Section 25262. In that event, the~~
9 ~~local agency, as the administering agency, shall conduct the~~
10 ~~oversight of the remedial action in accordance with Chapter 6.65~~
11 ~~(commencing with Section 25260) and all provisions of that chapter~~
12 ~~shall apply to the remedial action.~~

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

24 ~~(3) A local agency may not consent to the designation by an~~
25 ~~agency unless the local agency determines that it has adequate~~
26 ~~staff resources and the requisite technical expertise and capabilities~~
27 ~~available to adequately supervise the remedial action.~~

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

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

37 ~~(ii) The department or a California regional water quality control~~
38 ~~board determines that it has adequate staff resources and~~
39 ~~capabilities available to adequately supervise the remedial action,~~
40 ~~and assumes that responsibility.~~

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

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

8 ~~(e) To facilitate redevelopment planning, the agency may require~~
9 ~~the owner or operator of any site within a project area or its~~
10 ~~jurisdiction to provide the agency with all existing environmental~~
11 ~~information pertaining to the site, including the results of any Phase~~
12 ~~I or subsequent environmental assessment, as defined in Section~~
13 ~~25200.14, any assessment conducted pursuant to an order from,~~
14 ~~or agreement with, any federal, state, or local agency, and any~~
15 ~~other environmental assessment information, except that which is~~
16 ~~determined to be privileged. The person requested to furnish the~~
17 ~~information shall be required only to furnish that information as~~
18 ~~may be within their possession or control, including actual~~
19 ~~knowledge of information within the possession or control of any~~
20 ~~other party. If environmental assessment information is not~~
21 ~~available, the agency may require the owner of the property to~~
22 ~~conduct an assessment in accordance with standard real estate~~
23 ~~practices for conducting phase I or phase II environmental~~
24 ~~assessments.~~

25 ~~SEC. 4. Section 33459.3 of the Health and Safety Code is~~
26 ~~amended to read:~~

27 ~~33459.3. (a) Notwithstanding any other provision of law,~~
28 ~~except as provided in Section 33459.7, an agency that undertakes~~
29 ~~and completes an action, or causes another person to undertake~~
30 ~~and complete an action pursuant to Section 33459.1, as specified~~
31 ~~in subdivision (c), to remedy or remove a hazardous substance~~
32 ~~release on, under, or from property within a redevelopment project,~~
33 ~~in accordance with a cleanup or remedial action plan prepared by~~
34 ~~a qualified independent contractor and approved by the department~~
35 ~~or a California regional water quality control board or the local~~
36 ~~agency, as appropriate, pursuant to subdivision (b), is not liable,~~
37 ~~with respect to that release only, under Division 7 (commencing~~
38 ~~with Section 13000) of the Water Code or Chapter 6.5~~
39 ~~(commencing with Section 25100), Chapter 6.7 (commencing with~~
40 ~~Section 25280), Chapter 6.75 (commencing with Section~~

1 25299.10), or Chapter 6.8 (commencing with Section 25300), of
2 Division 20 of this code, or any other state or local law providing
3 liability for remedial or removal actions for releases of hazardous
4 substances. If the remedial action was also performed pursuant to
5 Chapter 6.65 (commencing with Section 25260) of Division 20,
6 and a certificate of completion is issued pursuant to subdivision
7 (b) of Section 25264, the immunity from agency action provided
8 by the certificate of completion, as specified in subdivision (c) of
9 Section 25264, shall apply to the agency, in addition to the
10 immunity conferred by this section. In the case of a remedial action
11 performed pursuant to Chapter 6.65 (commencing with Section
12 25260) of Division 20, and for which the administering agency is
13 a local agency, the limitations on the certificate of completion set
14 forth in paragraphs (1) to (6), inclusive, of subdivision (c) of
15 Section 25264 are limits on any immunity provided for by this
16 section and subdivision (c) of Section 25264.

17 (b) Upon approval of any cleanup or remedial action plan,
18 pursuant to applicable statutes and regulations, the director or the
19 California regional water quality control board or the local agency,
20 as appropriate, shall acknowledge, in writing, within 60 days of
21 the date of approval, that upon proper completion of the remedial
22 or removal action in accordance with the plan, the immunity
23 provided by this section shall apply to the agency.

24 (c) Notwithstanding any provision of law or policy providing
25 for certification by a person conducting a remedial or removal
26 action that the action has been properly completed, a determination
27 that a remedial or removal action has been properly completed
28 pursuant to this section shall be made only upon the affirmative
29 approval of the director or the California regional water quality
30 control board or the local agency, as appropriate. The department,
31 California regional water quality control board, or local agency,
32 as appropriate, shall, within 60 days of the date it finds that a
33 remedial action has been completed, notify the agency in writing
34 that the immunity provided by this section is in effect.

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

1 ~~(e) Upon proper completion of a remedial or removal action,~~
2 ~~as specified in subdivision (e), the immunity from agency action~~
3 ~~provided by the certificate of completion provided pursuant to~~
4 ~~subdivision (e) of Section 25264 and the immunity provided by~~
5 ~~this section extends to all of the following, but only for the release~~
6 ~~or releases specifically identified in the approved cleanup or~~
7 ~~remedial action plan and not for any subsequent release or any~~
8 ~~release not specifically identified in the approved cleanup or~~
9 ~~remedial action plan:~~

10 ~~(1) Any employee or agent of the agency, including an~~
11 ~~instrumentality of the agency authorized to exercise some, or all,~~
12 ~~of the powers of an agency within, or for the benefit of, a~~
13 ~~redevelopment project or its jurisdiction, and any employee or~~
14 ~~agent of the instrumentality.~~

15 ~~(2) Any person who enters into an agreement with an agency~~
16 ~~for the redevelopment of property, if the agreement requires the~~
17 ~~person to acquire property affected by a hazardous substance~~
18 ~~release or to remove or remedy a hazardous substance release with~~
19 ~~respect to that property.~~

20 ~~(3) Any person who acquires the property after a person has~~
21 ~~entered into an agreement with an agency for redevelopment of~~
22 ~~the property as described in paragraph (2).~~

23 ~~(4) Any person who provided financing to a person specified~~
24 ~~in paragraph (2) or (3).~~

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

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

30 ~~(2) Any person specified in subdivision (a) or (c) for any~~
31 ~~subsequent release of a hazardous substance or any release of a~~
32 ~~hazardous substance not specifically identified in the approved~~
33 ~~cleanup or remedial action plan.~~

34 ~~(3) Any contractor who prepares the cleanup or remedial action~~
35 ~~plan, or conducts the removal or remedial action.~~

36 ~~(4) Any person who obtains an approval, as specified in~~
37 ~~subdivision (b), or a determination, as specified in subdivision (c),~~
38 ~~by fraud, negligent or intentional nondisclosure, or~~
39 ~~misrepresentation, and any person who knows before the approval~~
40 ~~or determination is obtained or before the person enters into an~~

1 agreement, acquires the property or provides financing, as specified
2 in subdivision (e), that the approval or determination was obtained
3 by these means:

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

6 ~~(h) This section does not impair any cause of action by an
7 agency or any other party against the person, firm, or entity
8 responsible for the hazardous substance release which is the subject
9 of the removal or remedial action taken by the agency or other
10 person immune from liability pursuant to this section.~~

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

13 ~~(j) This section does not limit liability of a person described in
14 paragraph (3) or (4) of subdivision (e) for damages under the
15 federal Comprehensive Environmental Response, Compensation,
16 and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et
17 seq.).~~

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

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

24 ~~(1) The action is in accordance with a cleanup or remedial action
25 plan prepared by a qualified independent contractor and approved
26 by the department or a California regional water quality control
27 board or the local agency, as appropriate, pursuant to subdivision
28 (b).~~

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

31 ~~(m) The agency shall reimburse the department, the California
32 regional water quality control board, and the local agency for costs
33 incurred in reviewing or approving cleanup or remedial action
34 plans pursuant to this section.~~

35 ~~SEC. 5. Section 33459.8 of the Health and Safety Code is
36 amended to read:~~

37 ~~33459.8. If an agency undertakes any action to remedy or
38 remove a release of hazardous substances on, under, or from
39 property within a project area or property within its jurisdiction
40 that previously was within the jurisdiction of a former~~

1 redevelopment agency, the agency shall, if it is required to have
2 a redevelopment plan, amend its redevelopment plan and follow
3 the same procedure, as specified, and the legislative body is subject
4 to the same restrictions as provided for in Article 4 (commencing
5 with Section 33330), for the adoption of a redevelopment plan, if
6 the agency determines that as a result of the remedial or removal
7 action, it will also be taking any of the following actions:

- 8 (a) ~~Proposing to add new territory to a project area.~~
- 9 (b) ~~Increasing either the limitation on the amount of funds to~~
10 ~~be allocated to the agency or the time limit on the establishing of~~
11 ~~loans, advances, and indebtedness established pursuant to~~
12 ~~subdivisions (b) and (c) of Section 33333.2.~~
- 13 (c) ~~Lengthening the period during which the redevelopment~~
14 ~~plan is effective.~~
- 15 (d) ~~Merging project areas.~~
- 16 (e) ~~Adding significant additional capital improvement projects.~~

17 SEC. 6. ~~Section 2.5 of this bill incorporates amendments to~~
18 ~~Section 33459 of the Health and Safety Code proposed by this bill,~~
19 ~~Assembly Bill 229, and Assembly Bill 243. It shall become~~
20 ~~operative only if any of the following occur:~~

- 21 (1) ~~Assembly Bill 229 and this bill are enacted and become~~
22 ~~effective on or before January 1, 2014, each bill amends Section~~
23 ~~33459 of the Health and Safety Code, and this bill is enacted after~~
24 ~~Assembly Bill 229, in which case Section 2 of this bill shall not~~
25 ~~become operative.~~
- 26 (2) ~~Assembly Bill 243 and this bill are enacted and become~~
27 ~~effective on or before January 1, 2014, each bill amends Section~~
28 ~~33459 of the Health and Safety Code, and this bill is enacted after~~
29 ~~Assembly Bill 243, in which case Section 2 of this bill shall not~~
30 ~~become operative.~~
- 31 (3) ~~Assembly Bill 229, Assembly Bill 243, and this bill are~~
32 ~~enacted and become effective on or before January 1, 2014, each~~
33 ~~bill amends Section 33459 of the Health and Safety Code, and this~~
34 ~~bill is enacted after Assembly Bill 229 and Assembly Bill 243, in~~
35 ~~which case Section 2 of this bill shall not become operative.~~