

AMENDED IN SENATE APRIL 14, 2016

AMENDED IN SENATE JULY 13, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 806

Introduced by Assembly Member Members Dodd and Frazier

February 26, 2015

An act to ~~add Section 65964.5 to~~ amend Sections 52200.2, 52200.6, 52201, and 52202 of, and to add Section 52204 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 806, as amended, Dodd. ~~Planning and zoning: permits: strand-mounted antenna. Community development: economic opportunity.~~

Under existing law, before certain city, county, or city and county property is sold or leased for economic development purposes, approval of the sale or lease by the legislative body by resolution, after a public hearing, is required. Existing law requires that resolution to contain a finding that the sale or lease of the property will assist in the creation of economic opportunity, as defined.

This bill would repeal the existing requirement for approval of the sale or lease by the legislative body by resolution before certain city, county, or city and county property is sold or leased for economic development purposes. The bill would instead authorize a city, county, or city and county to acquire property in furtherance of the creation of

an economic opportunity, as defined. The bill would also authorize a city, county, or city and county to sell or lease property to create an economic opportunity. The bill would require the acquisition, sale, or lease to be approved by the legislative body by resolution after a public hearing. The bill would require the resolution to contain a finding that the acquisition, sale, or lease of the property will assist in the creation of economic opportunity and would require the creation of an economic opportunity to be subject to specified public notice and hearing provisions.

Existing law authorizes 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.

This bill would revise that authorization by requiring the loan to be in the form of a written loan agreement that includes a payment schedule, the terms for interest calculation, the rights and remedies of the parties in case of default, and any other material terms of the loan. The bill would require, prior to entering into that loan agreement, the city, county, or city and county to find, after a public hearing, that the assistance is necessary for the economic feasibility of the development and that the assistance cannot be obtained on economically feasible terms in the private market.

~~The Permit Streamlining Act governs the approval process that a city, county, or city and county is required to follow when approving, among other things, a project that is located within a flood hazard zone, a permit for a hazardous waste facility project, and a permit for construction or reconstruction for a development project for a wireless telecommunications facility.~~

~~This bill would require state and local agencies to encourage the installation of broadband by eliminating barriers that restrict broadband deployment. The bill would also require that strand-mounted antennas, as defined, that were previously in accordance with state or local government permitting requirements be exempt from additional permit requirements. The bill would make findings and declarations in this regard including that this constitutes a matter of statewide concern.~~

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

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

1 *SECTION 1. Section 52200.2 of the Government Code is*
2 *amended to read:*

3 52200.2. As used in this part “economic opportunity” means
4 any of the following:

5 (a) ~~Development agreements~~ *agreements, loan agreements, sale*
6 *agreements, lease agreements, or other agreements that create,*
7 *retain, or expand new jobs, in which the legislative body finds that*
8 *the agreement will create or retain at least one full-time equivalent,*
9 *permanent job for every thirty-five thousand dollars (\$35,000) of*
10 *city, county, or city and county investment in the project after full*
11 *capacity and implementation.*

12 (b) ~~Development agreements~~ *agreements, loan agreements, sale*
13 *agreements, lease agreements, or other agreements that increase*
14 *property tax revenues to all property tax collecting entities, in*
15 *which the legislative body finds that the agreement will result in*
16 *an increase of at least 15 percent of total property tax resulting*
17 *from the project at full implementation when compared to the year*
18 *prior to the property being acquired by the government entity.*

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

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

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

28 (f) *The acquisition of property in furtherance of the creation of*
29 *an economic opportunity, as described in subdivisions (a) to (e),*
30 *inclusive.*

31 *SEC. 2. Section 52200.6 of the Government Code is amended*
32 *to read:*

33 52200.6. (a) ~~This chapter part~~ shall not be interpreted to
34 authorize the use of eminent domain for economic development
35 purposes.

36 (b) *The creation of an economic opportunity pursuant to this*
37 *part shall be subject to the provisions of Section 53083.*

1 (c) *The provisions of this part shall be an alternative to any*
 2 *authority of a city, county, or city and county to create an economic*
 3 *opportunity or to acquire, sell, or lease property for economic*
 4 *development, found in the Constitution, state law, local ordinance,*
 5 *or charter. This part does not limit, or in any way affect, the*
 6 *application of any other such laws.*

7 SEC. 3. *Section 52201 of the Government Code is amended to*
 8 *read:*

9 52201. (a) (1) ~~Before any city, county, or city and county~~
 10 ~~property that is returned to the city, county, or city and county per~~
 11 ~~the long-range property management plan, pursuant to Section~~
 12 ~~34191.5 of the Health and Safety Code, is sold or leased for~~
 13 ~~economic development purposes, the sale~~ *A city, county, or city*
 14 *and county may acquire property in furtherance of the creation of*
 15 *an economic opportunity. A city, county, or city and county may*
 16 *sell or lease property to create an economic opportunity. The*
 17 *acquisition, sale, or lease shall first be approved by the legislative*
 18 *body by resolution after a public hearing. Notice of the time and*
 19 *place of the hearing shall be published in a newspaper of general*
 20 *circulation in the community at least once per week for at least*
 21 *two successive weeks, as specified in Section 6066, prior to the*
 22 *hearing.*

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

28 (A) *A copy of the proposed* ~~sale~~ *acquisition, sale, or lease.*

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

30 (i) *The cost of the agreement to the city, county, or city and*
 31 *county, including land acquisition costs, clearance costs, relocation*
 32 *costs, the costs of any improvements to be provided by the city,*
 33 *county, or city and county, plus the expected interest on any loans*
 34 *or bonds to finance the agreements.*

35 (ii) ~~The~~ *For the sale or lease of property, the estimated value*
 36 *of the interest to be conveyed or leased, determined at the highest*
 37 *and best uses permitted under the general plan or zoning.*

38 (iii) ~~The~~ *For the sale or lease of property, the estimated value*
 39 *of the interest to be conveyed or leased, determined at the use and*
 40 *with the conditions, covenants, and development costs required*

1 by the sale or lease. The purchase price or present value of the
2 lease payments which the lessor will be required to make during
3 the term of the lease. If the sale price or total rental amount is less
4 than the fair market value of the interest to be conveyed or leased,
5 determined at the highest and best use, then the city, county, or
6 city and county shall provide as part of the summary an explanation
7 of the reasons for the difference.

8 (iv) An explanation of why the ~~sale acquisition, sale,~~ or lease
9 of the property will assist in the creation of economic opportunity,
10 with reference to all supporting facts and materials relied upon in
11 making this explanation.

12 (b) The resolution approving the ~~lease or sale acquisition, sale,~~
13 *or lease* shall be adopted by a majority vote unless the legislative
14 body has provided by ordinance for a two-thirds vote for that
15 purpose and shall contain a finding that the ~~sale acquisition, sale,~~
16 or lease of the property will assist in the creation of economic
17 opportunity. ~~The~~ *For the sale or lease of property, the* resolution
18 shall also contain one of the following findings:

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

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

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

26 *SEC. 4. Section 52202 of the Government Code is amended to*
27 *read:*

28 52202. (a) A city, county, or city and county may ~~establish a~~
29 ~~program under which it loans~~ *loan* funds to owners or tenants for
30 the purpose of rehabilitating commercial buildings or structures.
31 *The loan shall be in the form of a written loan agreement that*
32 *includes a payment schedule, the terms for interest calculation,*
33 *the rights and remedies of the parties in case of default, and any*
34 *other material terms of the loan.*

35 (b) *Prior to entering into a loan agreement pursuant to this*
36 *section, the city, county, or city and county shall find, after a public*
37 *hearing, that the assistance is necessary for the economic feasibility*
38 *of the development and that the assistance cannot be obtained on*
39 *economically feasible terms in the private market.*

1 SEC. 5. Section 52204 is added to the Government Code, to
2 read:

3 52204. The determinations made by a legislative body pursuant
4 to this part shall be final and conclusive.

5 SECTION 1. Section 65964.5 is added to the Government
6 Code, to read:

7 65964.5. (a) (1) The Legislature hereby finds and declares
8 that communications technology and services, particularly
9 broadband, are critical the the economic success of this state in
10 the 21st century. Broadband can drive local and state economic
11 growth, as well as improve education, business services, public
12 safety, health care, and energy efficiency.

13 (2) The Legislature finds and declares that the implementation
14 of consistent statewide policies to achieve timely and cost-effective
15 deployment of broadband is a matter of statewide concern and that
16 this section shall apply to charter cities and charter counties. The
17 provisions of this section shall supersede any inconsistent
18 provisions in the charter of any city, county, or city and county.

19 (b) It is the intent of the Legislature that state and local agencies
20 not adopt ordinances, resolutions, or regulations that create
21 unreasonable barriers to the installation of broadband. State and
22 local agencies shall encourage the installation of broadband by
23 eliminating barriers that restrict broadband deployment.

24 (c) (1) A strand-mounted antenna used for the provision of
25 video, voice, or data service that is attached to communications
26 infrastructure that were previously constructed in accordance with
27 state or local permitting requirements shall be exempt from
28 additional permitting requirements.

29 (2) For the purposes of this section, "strand-mounted antenna"
30 means a low-powered antenna embedded in or attached to
31 communications cables that are part of a pole-supported overhead
32 communications infraseture. "Strand-mounted antenna" shall not
33 include a commercial mobile radio services (CMRS) antenna.