

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE APRIL 13, 2010

AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1205

**Introduced by Senator Corbett
(Coauthors: Senators DeSaulnier and Hancock)**

February 18, 2010

An act to add and repeal Title 7.26 (commencing with Section 66720) of the Government Code, relating to disaster recovery.

LEGISLATIVE COUNSEL'S DIGEST

SB 1205, as amended, Corbett. Bay Area Disaster Recovery Planning Council Act.

Existing law authorizes 2 or more public agencies, by agreement, to jointly exercise common powers. Existing law also establishes the San Francisco Bay Restoration Authority to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in the San Francisco Bay.

This bill would establish, until January 1, 2030, the Bay Area Disaster Recovery Planning Council to create a long-term regional recovery plan, to be implemented before and after an earthquake or other disaster occurs in the bay area, by cooperating with various stakeholders in the bay area, including, but not limited to, the cities, counties, special districts, school districts, emergency managers, hospitals, members of the public, private businesses, and nongovernmental organizations.

The bill would impose specific duties on the Association of Bay Area Governments, thereby imposing a state-mandated local program.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

SECTION 1. Title 7.26 (commencing with Section 66720) is added to the Government Code, to read:

TITLE 7.26. BAY AREA DISASTER RECOVERY
PLANNING COUNCIL

CHAPTER 1. FINDINGS AND DECLARATIONS

66720. This title shall be known and may be cited as the Bay Area Disaster Recovery Planning Council Act.

66721. The Legislature hereby finds and declares all of the following:

(a) The San Francisco Bay area will experience a major earthquake in its future.

(b) Disasters not properly managed and planned for can easily escalate into catastrophies that will have major lasting consequences on the region.

(c) The nine counties surrounding the San Francisco Bay constitute a region of vital importance to the national economy and future business innovation. The bay area leads the nation in innovation, research, and new technology.

(d) The bay area is crisscrossed by many active faults. Several of these faults, including the San Andreas and Hayward faults, are capable of causing a major disaster in the region. The United States Geological Survey predicts that there is a 67 percent chance that a major earthquake will strike the bay area in the next 30 years. The Hayward fault, which runs through the densely populated urban cities of Fremont, Oakland, and Berkeley, experiences a major earthquake approximately every 140 years. The last

1 earthquake on this fault was in 1868, making the Hayward fault
2 the most dangerous in the bay area today.

3 (e) While the bay area has appropriately focused on risk
4 mitigation strategies and emergency response preparation, there
5 has been little attention given to the lengthy post-90 day, long-term
6 recovery period that will follow a major disaster such as an
7 earthquake. This is the period that will make or break the region's
8 economic future.

9 (f) The bay area is making great strides to reduce the impacts
10 of a major earthquake, but the scale of the problem is huge and
11 critical components of the system are still vulnerable. A great
12 amount of work still needs to be done to prepare the region.
13 Transportation, water, and housing are key systems that must be
14 robust in order to facilitate a speedy recovery for the region.

15 (g) Recent disasters have repeatedly shown that the weeks and
16 months following a disaster require that all city and county
17 departments, special jurisdictions, the state and federal government,
18 and the private sector work together toward disaster recovery.

19 (h) Past disasters clearly show the consequences of not planning
20 for recovery. In 2010, the San Francisco Bay Bridge seismic retrofit
21 has still not been completed despite the known hazard since the
22 1989 Loma Prieta earthquake, and the City of Atascadero is just
23 beginning to replace its city hall that was damaged in the 2003
24 San Simeon earthquake. New Orleans is still struggling to rebuild
25 its communities more than five years after Hurricane Katrina. In
26 Kobe, Japan, where a massive earthquake devastated the region
27 in 1995, thousands of people still live in temporary housing nearly
28 15 years after the earthquake.

29 (i) Earthquakes will affect the entire region, not just individual
30 cities and counties. The regional nature of an earthquake demands
31 a regional long-term recovery strategy, but few models exist from
32 other regions.

33 (j) With 101 cities, nine counties, and more than 400 special
34 districts, the bay area is poorly structured to undertake the
35 regional-scale challenge of the long-term recovery phase. However,
36 with advance planning and organization, the bay area can plan for
37 long-term recovery. This will entail having an understanding of
38 the issues that will confront the region, the goals pursued, and the
39 decisionmaking protocols that it will follow.

1 (k) Adequate planning for the weeks, months, and years after
2 immediate life and safety needs have been addressed will determine
3 whether the region recovers and persists as a vibrant community
4 and driver of the nation's prosperity, or whether the region suffers
5 long-term depopulation with businesses and residents permanently
6 relocating to more stable communities.

7 (l) A major earthquake on the Hayward fault, for example, is
8 predicted to leave 156,000 housing units uninhabitable. In contrast
9 to Hurricane Katrina, where 40 percent of homeowners were
10 insured, less than 10 percent of bay area homeowners have
11 earthquake insurance. Because of high deductibles, it is anticipated
12 that only 4.4 percent of losses will be covered by insurance. The
13 likelihood that these homeowners will have the resources to rebuild
14 their homes in a timely manner is low and rebuilding will depend
15 on the ability of homeowners to attract private investment to their
16 properties. At a time when rental vacancy rates are already very
17 low and homeowners are struggling to hold on to their properties,
18 there is little incentive or ability for uninsured homeowners to
19 invest in the rebuilding of their properties.

20 (m) Recovery of the business economy depends on the ability
21 of workers to return to work, and workers without homes are
22 unlikely to be able to do so.

23 (n) A regional long-term recovery plan must involve all
24 stakeholders from local governments, emergency managers, lifeline
25 operators, schools, private sector businesses, members of the
26 public, the health and hospital community, and nongovernmental
27 organizations. These stakeholders must reach consensus on the
28 priorities for long-term disaster recovery, including serving
29 vulnerable communities that may have the least access to resources,
30 are more reliant upon government services, and most susceptible
31 to the impacts of delays in government action after a disaster.

32 (o) Key functional areas of recovery that must be understood
33 include lifeline interdependency, long-term housing replacement,
34 business recovery, government facilities and services,
35 transportation, health and education, vulnerable communities, and
36 land use change.

37 (p) Public-private partnerships are key to this process. Private
38 businesses must be confident that recovery will happen quickly in
39 order to continue to invest in the region. The planning process
40 must address their needs and concerns. The roles of private

business in the long-term recovery plan will be identified together with local governments.

(q) The Association of Bay Area Governments (ABAG) is a unique regional entity, well suited to lead this effort. The ABAG was formed as a Council of Governments by the 101 cities and nine counties of the bay area to address social, environmental, and economic issues that transcend local borders. The mission of the ABAG is to facilitate and strengthen cooperation and coordination among local governments.

(r) The San Francisco Bay area needs to develop regional mechanisms to address threats of natural hazards and to secure opportunities for the improvement of the long-term disaster recovery capacity of the San Francisco Bay area, which will promote sustainable redevelopment and create a more disaster-resistant region.

(s) It is in the public interest to create the Bay Area Disaster Recovery Planning Council as a regional entity to facilitate long-term disaster recovery planning for the bay area. The council will endeavor to provide its members with shared knowledge and familiarity of the issues necessary to tackle critical tasks of prioritizing recovery activities, sharing resources, and interfacing with a vast array of local entities and stakeholders as well as state and federal agencies. The council will sponsor and review local actions to improve preparation for long-term recovery, including guidelines for member cities, counties, and agencies to align finance department preparation, building ordinances, emergency housing strategies, nonemergency response mutual aid agreements, and a variety of additional tasks, along with information gathering, plan consolidation, application for resources, and policy discussion.

CHAPTER 2. DEFINITIONS

66722. Unless the context otherwise requires, the following definitions govern the construction of this title:

(a) “ABAG” means the Association of Bay Area Governments.

(b) “Administrative committee” means the Bay Area Disaster Recovery Planning Administrative Committee convened by the governing board of the Bay Area Disaster Recovery Planning Council pursuant to Section 66724.5.

(c) “Board” means the governing board of the council.

(d) “Council” means the Bay Area Disaster Recovery Planning Council established pursuant to Section 66723.

(e) “Member” means a person appointed as a member of the board.

(f) “San Francisco Bay area” or “bay area” means the area that includes the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

(g) “Technical advisory committee” means the Bay Area Disaster Recovery Planning Technical Advisory Committee convened by the board pursuant to Section 66724.6.

CHAPTER 3. BAY AREA DISASTER RECOVERY PLANNING COUNCIL

66723. (a) The Bay Area Disaster Recovery Planning Council is hereby established as a regional entity with jurisdiction extending throughout the San Francisco Bay area.

(b) The council shall create a long-term regional recovery plan by cooperating with various stakeholders in the bay area, including, but not limited to, the cities, counties, special districts, school districts, emergency managers, hospitals, members of the public, private business, and nongovernmental organizations.

(c) The scope and purpose of the recovery plan shall be for planning for the region’s resiliency following a disaster by increasing the speed of rebuilding lifeline infrastructure, including, but not limited to, water, and energy pipelines, planning for temporary transportation and transit programs during the repair of the transportation system, enhancing government management capacity for large scale capital projects programs, planning for the reconstruction of housing supply damaged by the disaster, creating mechanisms to assist businesses with temporary relocation and financing, and other issues associated with sustainable redevelopment following a major disaster. In planning for the purposes contained within this section, the council shall consult with emergency managers and other local government staff involved in disaster recovery to ensure that the plan incorporates local planning efforts and is not duplicative of work already being done in the region. The recovery plan shall not be a postdisaster operations plan.

(d) Nothing in this title shall be deemed to confer upon the council any land use, regulatory, or permitting authority. The power of the council is limited to planning.

(e) The jurisdiction of the council is not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).

66723.5. It is the intent of the Legislature that the council complement existing efforts by cities, counties, districts, and other local, regional, and state entities, related to addressing the goals described in this title.

CHAPTER 4. GOVERNING BODY

66724. (a) The council shall be governed by the board composed of voting members, as follows:

(1) All members of the ABAG Regional Planning Committee.

(2) The ABAG Executive Board shall appoint one member representing each of the following:

(A) Not less than four members representing lifeline infrastructure districts such as water and wastewater, power and energy, telecommunications, and transit.

(B) A school board member or member of a county board of education.

(C) A nonprofit service delivery agency.

(D) A member of the Bay Area Urban Area Security Initiative.

(E) Not less than four members representing private sector business, economics, and planning organizations.

(F) A county or city emergency manager.

(b) Each member shall serve at the pleasure of the ~~the~~ ABAG Executive Board.

(c) A vacancy shall be filled by the ABAG Executive Board within 90 days from the date on which the vacancy occurs.

66724.1. The members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

66724.2. Each member shall exercise his or her independent judgment on behalf of the interests of the residents, the property owners, and the public as a whole in furthering the intent and purposes of this title.

66724.3. The board shall elect from its own members a chair and a vice chair who shall preside in the absence of the chair.

1 66724.4. (a) The time and place of the first meeting of the
2 board shall be at a time and place within the San Francisco Bay
3 area fixed by the ABAG President.

4 (b) After the first meeting described in subdivision (a), the board
5 shall hold meetings at times and places determined by the board.

6 (c) Meetings of the board are subject to the Ralph M. Brown
7 Act (Chapter 9 (commencing with Section 54950) of Part 1 of
8 Division 2 of Title 5).

9 66724.5. (a) Not later than six months after the date of the
10 board's first meeting described in subdivision (a) of Section
11 66723.4, the board shall convene a Bay Area Disaster Recovery
12 Planning Administrative Committee to assist and advise the board
13 in carrying out the functions of the board. The administrative
14 committee shall meet on a regular basis.

15 (b) The membership of the administrative committee shall be
16 determined by the council based upon criteria that provide a broad
17 representation of community and agency interests and geographical
18 diversity within the council's jurisdiction over the long-term
19 disaster recovery in the San Francisco Bay area. The membership
20 of the administrative committee shall be appointed by the council.

21 66724.6. (a) Not later than six months after the date of the
22 board's first meeting described in subdivision (a) of Section
23 66723.4, the board shall convene a Bay Area Disaster Recovery
24 Planning Technical Advisory Committee to be composed of local
25 emergency managers, city and regional planners, engineers, and
26 members of other technical fields, as necessary. The technical
27 advisory committee shall meet on a regular basis.

28 (b) The membership of the technical advisory committee shall
29 be determined by the council based upon criteria that provide a
30 broad representation of community and agency interests and
31 geographical diversity within the council's jurisdiction over the
32 long-term disaster recovery in the San Francisco Bay area. The
33 membership of the technical advisory committee shall be appointed
34 by the council.

35 66724.7. (a) The board is the legislative body of the council
36 and, consistent with this title, shall establish policies for the
37 operation of the council.

38 (b) The board may act either by ordinance or resolution in order
39 to regulate the council and to implement this title.

1 (c) A majority of the voting members of the board shall
2 constitute a quorum for the purpose of transacting any business of
3 the council. A recorded majority vote of the total voting
4 membership of the board is required on each action.

5 *(d) Notwithstanding subdivision (c), only members of the council*
6 *who are elected from a city, county, or special district may vote*
7 *on the management of revenues pursuant to subdivision (c) of*
8 *Section 66725. A majority vote of members specified in this*
9 *subdivision shall be required to take action regarding the*
10 *management of revenues.*

11
12 CHAPTER 5. POWERS AND DUTIES
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14 66725. The council may do all of the following:

15 (a) Apply for and receive grants from federal and state agencies.

16 (b) Solicit and accept gifts, fees, grants, and allocations from
17 public and private entities.

18 (c) Receive and manage a dedicated revenue source.

19 (d) Deposit or invest moneys of the council in banks or financial
20 institutions in the state in accordance with state law.

21 (e) Sue and be sued, except as otherwise provided by law, in
22 all actions and proceedings, in all courts and tribunals of competent
23 jurisdiction.

24 (f) Engage counsel and other professional services.

25 (g) Enter into and perform all necessary contracts.

26 (h) Enter into joint powers agreements pursuant to the Joint
27 Exercise of Powers Act (Chapter 5 (commencing with Section
28 6500) of Division 7 of Title 1).

29 (i) Use interim or temporary staff provided by the Association
30 of Bay Area Governments. A person who performs duties as
31 interim or temporary staff shall not be considered an employee of
32 the council.

33 66725.1. The council shall not acquire or own real property.

34 66725.2. All records prepared, owned, used, or retained by the
35 council are public records for purposes of the California Public
36 Records Act (Chapter 3.5 (commencing with Section 6250) of
37 Division 7 of Title 1 of the Government Code).

38 66725.3. The council shall not apply for funding dedicated
39 solely for planning for emergency response immediately after a
40 disaster.

CHAPTER 6. FINANCIAL PROVISIONS

66726. (a) The board shall provide for regular audits of the council's accounts and records and shall maintain accounting records and shall report accounting transactions in accordance with generally accepted accounting principles adopted by the Government Accounting Standards Board of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller.

(b) The board shall provide for annual financial reports. The board shall make copies of the annual financial reports available to the public.

66726.5. The council shall be funded through gifts, donations, grants, state or local bonds, other appropriate funding sources, and other types of financial assistance from public and private sources. Nothing in this title shall be construed to authorize the council to incur debt or raise revenue by levying taxes, assessments, or fees.

CHAPTER 7. REPEAL

66727. This title shall remain in effect only until January 1, 2030, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2030, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.