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AMENDED IN ASSEMBLY APRIL 24, 2014  
AMENDED IN ASSEMBLY APRIL 1, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2549**

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**Introduced by Assembly Member Ridley-Thomas**  
(Coauthor: Senator Correa)

February 21, 2014

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An act to add and repeal Section 53083.2 of the Government Code, relating to local government. *Section 19967 to the Business and Professions Code, relating to gambling.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2549, as amended, Ridley-Thomas. ~~City of Milpitas. Gambling: moratorium: City of Milpitas.~~

~~Existing law declares 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. Existing law requires each local agency, as defined to include a city, to provide specified information to the public before approving an economic development subsidy, as defined, within its jurisdiction, and to review, hold hearings, and report on those subsidies at specified intervals.~~

~~This bill would authorize the City of Milpitas, on or before April 1, 2015, to organize an independent local commission, composed of the city manager, as an ex officio member, and 7 specified members appointed by the Milpitas City Council, to investigate and study issues~~

~~related to employment, revenues, and economic activity in order to identify and recommend ways to raise revenues for specified purposes.~~

~~This bill would repeal these provisions on January 1, 2017.~~

*Existing law, the Gambling Control Act, provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the investigation and enforcement of those activities and establishments by the Department of Justice.*

*Under the Gambling Control Act, a city, county, or city and county, may authorize controlled gambling consistent with state law, as provided. However, until January 1, 2020, existing law prohibits the governing body and the electors of a city, county, or city and county from authorizing or expanding any legal gaming beyond that permitted on January 1, 1996. Additionally, until January 1, 2020, existing law prohibits the commission from issuing a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, except as specified.*

*This bill would, notwithstanding the moratorium described above, authorize the City of Milpitas, upon approval of the electors, to authorize controlled gambling within that city subject to specified conditions, including, among others, that controlled gambling may only be conducted by a gambling establishment licensed by the commission and operating in the County of Santa Clara on or before January 1, 2013, that elects to change its location to the City of Milpitas from another location in the County of Santa Clara.*

*This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Milpitas.*

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Recent losses of local funding have degraded public safety
- 4 in the City of Milpitas (city) as the city has cut employment. Since
- 5 the 2011–12 fiscal year, the city has laid off 110 employees,
- 6 including 12 firefighters, and has been unable to fill 147 other
- 7 positions that would otherwise ~~had~~ have been filled, including 13
- 8 police officer positions.

(b) A lack of economic development tools has stopped investment in previously approved critical infrastructure in the city. Two hundred twenty million dollars (\$220,000,000) worth of road, water, and sewer improvements, which had been approved in the capital improvement plan of the city, cannot be constructed. Other projects, including infrastructure ~~projects~~ *projects*, have been delayed due to significant funding shortfalls in the city's general fund to maintain streets. The city's annual shortfall to maintain its Metropolitan Transit Commission-mandated Pavement Condition Index goal of 70 is ~~\$4 million~~ *four million five hundred thousand dollars (\$4,500,000)* per year.

(c) A lack of economic development tools has stopped previously approved development projects in the city, including a 120-room hotel and a low- and moderate-income senior housing project. With respect to the latter project, the project developer had agreed to employ 100 full-time medical and caregiver positions. Both projects had completed permits and land use reviews, including reviews under the California Environmental Quality Act.

~~(d) The city desires to ensure the greatest amount of citizen participation to increase economic activity in the McCarthy Ranch area of the city near the Newby Island landfill in order to find new revenue sources to replace the funds, restore losses of firefighters and police officers, maintain and upgrade critical infrastructure, and generate employment and economic activity through previously approved private investment. Milpitas City Council adopted an entertainment overlay to its zoning ordinance on March 16, 2010, that would allow for operation of a licensed gambling establishment in specific areas in the City of Milpitas. Although the Legislature enacted the moratorium on the expansion of gambling in the Gambling Control Act, the Legislature retains the power to create exceptions to the moratorium to determine where gambling may take place consistent with factual and legal circumstances.~~

*(e) Gambling establishments are significant sources of tax revenues within their jurisdictions that can fund staffing, economic development, and public infrastructure projects, including those that have suffered in the City of Milpitas as a result of cuts in the city's budget.*

1 SEC. 2. ~~Section 53083.2 is added to the Government Code, to~~  
2 ~~read:~~

3 ~~53083.2. (a) On or before April 1, 2015, the City of Milpitas~~  
4 ~~may organize an independent local commission to investigate and~~  
5 ~~study issues related to employment, revenues, and economic~~  
6 ~~activity in order to identify and recommend ways to raise revenues~~  
7 ~~to increase city staff to adequate levels, to invest in infrastructure~~  
8 ~~and development projects, and to increase economic activity in~~  
9 ~~the McCarthy Ranch area of the City of Milpitas near the Newby~~  
10 ~~Island landfill.~~

11 ~~(b) The commission shall be composed of seven people~~  
12 ~~appointed by the Milpitas City Council, as follows:~~

13 ~~(1) One member of the business community who is also a~~  
14 ~~member of the Milpitas Chamber of Commerce.~~

15 ~~(2) One employee of the City of Milpitas Fire Department.~~

16 ~~(3) One employee of the City of Milpitas Police Department.~~

17 ~~(4) One member of a local union that is unaffiliated with public~~  
18 ~~employee unions representing workers for the City of Milpitas.~~

19 ~~(5) One owner of real property within the McCarthy Ranch area~~  
20 ~~of the City of Milpitas near the Newby Island landfill.~~

21 ~~(6) Two residents of the City of Milpitas.~~

22 ~~(c) The city manager of the City of Milpitas shall be an ex~~  
23 ~~officio member of the commission and report on the commission's~~  
24 ~~activities to the Milpitas City Council.~~

25 ~~(d) The commission shall elect its own chairperson.~~

26 ~~(e) Within one year of the City of Milpitas forming the~~  
27 ~~commission, the commission's authority shall cease.~~

28 ~~(f) This section shall remain in effect only until January 1, 2017,~~  
29 ~~and as of that date is repealed, unless a later enacted statute, that~~  
30 ~~is enacted before January 1, 2017, deletes or extends that date.~~

31 SEC. 2. *Section 19967 is added to the Business and Professions*  
32 *Code, to read:*

33 *19967. (a) Notwithstanding any provision of this chapter,*  
34 *including, but not limited to, Sections 19961, 19961.06, 19962,*  
35 *and 19963, the City of Milpitas may authorize controlled gambling*  
36 *within that city pursuant to this section.*

37 *(b) The City of Milpitas may authorize controlled gambling in*  
38 *that city if a majority of the electors voting thereon have*  
39 *affirmatively approved a measure that complies with subdivision*  
40 *(c) of Section 19960.*

1     (c) (1) Controlled gambling authorized pursuant to this section  
2 shall be conducted only by a gambling establishment licensed by  
3 the commission and operating in the County of Santa Clara on or  
4 before January 1, 2013, that elects to change its location to the  
5 City of Milpitas from another location in the County of Santa  
6 Clara.

7     (2) A gambling establishment shall do both of the following  
8 prior to relocating to the City of Milpitas from another location  
9 in the County of Santa Clara:

10     (A) Apply for, and receive, a license from the City of Milpitas.

11     (B) Upon receipt of the license described in subparagraph (A),  
12 provide notice to the commission and the department of the  
13 gambling establishment's intent to relocate to the City of Milpitas  
14 from another location in the County of Santa Clara. The notice  
15 required by this paragraph shall be provided at least three months  
16 before the gambling establishment relocates to, or offers controlled  
17 gambling in, the City of Milpitas.

18     (d) Notwithstanding any law or regulation, if the conditions of  
19 subdivision (c) are satisfied, the commission and the department  
20 shall authorize a gambling establishment's relocation to the City  
21 of Milpitas from another location in the County of Santa Clara.

22     (e) The Legislature finds and declares that a special law is  
23 necessary and that a general law cannot be made applicable within  
24 the meaning of Section 16 of Article IV of the California  
25 Constitution because of the unique circumstances in the City of  
26 Milpitas, described in Section 1 of this act. There is a rational  
27 relationship between authorizing controlled gambling within the  
28 entertainment overlay designated by the city's zoning ordinance  
29 and reversing the city's financial crisis. This act simply allows the  
30 voters in the City of Milpitas to act effectively on the question of  
31 whether to authorize controlled gambling in that jurisdiction  
32 consistent with provisions of the Gambling Control Act and under  
33 the city's financial circumstances. Should the voters in the City of  
34 Milpitas adopt such an ordinance, the city can then compete to  
35 attract one of the three licensed gambling establishments operating  
36 in the County of Santa Clara to move within the county to the City  
37 of Milpitas. This exception to the moratorium in the Gambling  
38 Control Act is not arbitrary because it respects the Legislature's  
39 policy, adopted in the moratorium, to not authorize new licenses.  
40 Moreover, the circumstances in the City of Milpitas outweigh any

1 *consideration of a more general law creating an even greater*  
2 *exception to the policy adopted by the Legislature in the*  
3 *moratorium.*

4 ~~SEC. 3. The Legislature finds and declares that a special law~~  
5 ~~is necessary and that a general law cannot be made applicable~~  
6 ~~within the meaning of Section 16 of Article IV of the California~~  
7 ~~Constitution because of the unique circumstances in the City of~~  
8 ~~Milpitas, where parcels on the west side of Interstate 880 and to~~  
9 ~~the east of Coyote Creek in the McCarthy Ranch area of Milpitas~~  
10 ~~near the Newby Island landfill, the San Francisco Bay area, and~~  
11 ~~the regional water pollution control plant face particular challenges~~  
12 ~~to economic development as a result of their restrictive location.~~