

Introduced by Senator Umberg

January 23, 2023

An act to add Section 54230.7 to the Government Code, relating to surplus land.

LEGISLATIVE COUNSEL'S DIGEST

SB 229, as amended, Umberg. Surplus land: disposal of property: violations: public meeting.

Existing law prescribes requirements for the disposal of land determined to be surplus land by a local agency. Those requirements include a requirement that a local agency, before disposing of a property or participating in negotiations to dispose of that property with a prospective transferee, send a written notice of availability of the property to specified entities, depending on the property's intended use, and send specified information in regard to the disposal of the parcel of surplus land to the Department of Housing and Community Development. Existing law, among other enforcement provisions, makes a local agency that disposes of land in violation of these disposal provisions, after receiving notification of violation from the department, liable for a penalty of 30% of the final sale price of the land sold in violation for a first violation and 50% for any subsequent violation. Under existing law, except as specified, a local agency has 60 days to cure or correct an alleged violation before an enforcement action may be brought.

This bill would require a local agency that has received a notification of violation from the department to hold an open and public session to review and consider the substance of the notice of violation. The bill

would require the local agency's governing body to provide prescribed notice no later than 14 days before the public session. The bill would prohibit the local agency's governing body from taking final action to ratify or approve the proposed disposal until a public session is held as required. By imposing new duties on local agencies, the bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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:

1 SECTION 1. Section 54230.7 is added to the Government
2 Code, to read:
3 54230.7. (a) If a local agency is disposing of a parcel *by sale*
4 *or lease* and has received a notification from the Department of
5 Housing and Community Development pursuant to Section 54230.5
6 that it is in violation of this article with regard to the parcel, the
7 local agency shall hold an open and public session to review and
8 consider the substance of the notice of violation. In addition to any
9 other applicable notice requirements, the local agency shall provide
10 notice, in the manner prescribed by this section, before the public
11 session. The notice shall be disclosed on the local agency's internet
12 website, in a conspicuous public place at the offices of the local
13 agency, and to the Department of Housing and Community
14 Development no later than 14 days before the public session at
15 which the notice of violation will be considered.

1 (b) The local agency’s governing body shall not take final action
2 to ratify or approve the proposed disposal until a public session is
3 held as required by this section.

4 (c) Nothing in this section shall be construed to require the
5 legislative body of a local agency to disclose information that is
6 privileged or protected pursuant to Section 54956.8 in the public
7 meeting to discuss the substance of the notice of violation.

8 SEC. 2. The Legislature finds and declares that Section 1 of
9 this act, which adds Section 54230.7 to the Government Code,
10 furthers, within the meaning of paragraph (7) of subdivision (b)
11 of Section 3 of Article I of the California Constitution, the purposes
12 of that constitutional section as it relates to the right of public
13 access to the meetings of local public bodies or the writings of
14 local public officials and local agencies. Pursuant to paragraph (7)
15 of subdivision (b) of Section 3 of Article I of the California
16 Constitution, the Legislature makes the following findings:

17 This act is necessary to give the public adequate notice of and
18 opportunity to comment in an open and public session on the
19 proposed disposition and use of surplus public property by a local
20 agency in cases where the local agency has not complied with the
21 statutory requirements for the disposal of surplus land in Article
22 8 (commencing with Section 54220) of Chapter 5 of Part 1 of
23 Division 2 of Title 5 of the Government Code.

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district under this act would result from a legislative mandate that
28 is within the scope of paragraph (7) of subdivision (b) of Section
29 3 of Article I of the California Constitution.