



California Association for Local Economic Development

July 13, 2022

The Honorable Chris Holden
Legislative Office Building
1021 O Street, Suite 5650
Sacramento, CA 95814

Re: Oppose SB 361 (Umberg)

Dear Assembly Member Holden:

The California Association for Local Economic Development (CALED), an organization representing over 800 public and private local economic development professionals, regrets that it must **Oppose** SB 361 (Umberg), as Amended June 20, 2022.

SB 361 creates additional costs for local agencies within Orange County seeking to dispose of or develop publicly-owned properties due to the uncertainties and time delays associated with providing the Department of Housing and Community Development (HCD) unilateral authority to prohibit the disposal of properties for unlimited timeframes without transparent standards and access to reasonable judicial due process.

Local agencies undoubtedly would expect to recover costs from the state for unjustified delays. Aside from a local agency's increased costs of materials and labor, other local agency costs for delayed or canceled projects include:

- Local agency costs for staff time and consultants to prepare for the sale of property. These costs can include costs for appraisals, legal fees for negotiating transfer documents, any engineering and other soft costs. These are capital outlays that are usually repaid from sales proceeds, which will become a direct cost to an agency if HCD stops or delays disposition.
- Local agency exposure and costs associated with potential third-party liability when the subject property becomes subject to illegal dumping, personal injuries, homeless encampments and other risks associated with land being vacant or unused.
- Loss of local agency access to funding and/or diminished value when the property disposal is delayed or prohibited.

Besides unjustly penalizing all local agencies within a county over concerns over a specific project in the author's district which is no longer moving forward, the approach of this bill raises many broader concerns including:

- Unclear criteria: the bill lacks specified parameters on what constitutes a violation and the rights and remedies for local agencies entangled in this process – eventually leading to a standstill on land transfers resulting in financial losses to public agencies.

The California Association for Local Economic Development (CALED) is the premier statewide professional economic development organization dedicated to advancing its members' ability to achieve excellence in delivering economic development services to their communities and business clients.



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- *Lack of judicial process or transparency*: the bill does not include a clear process for implementation, giving HCD authority to review according to subjective process, levy fines at will, and potentially kill projects without a public process protecting the authority and rights of affected jurisdictions. If a public agency disagrees with HCD's notice of violation, this could result in up to 3-5 years delay to go through court proceedings.
- *Clouded title process*: by expressly prohibiting the disposition of land until HCD determines the disposing agency has complied with the SLA or deems the alleged violation not to be a violation, the State and private parties are given rights to prevent land dispositions and to potentially invalidate land dispositions already completed. A title company is likely not going to issue title insurance until HCD approves of the land disposition, which will result in substantial delays in the land disposition closing and the potential loss of project funding.
- *Retroactively punitive – jeopardizing past projects*: the language in Section 54230.5 (c), when combined with the additional text of the code section, could be interpreted to mean that this new authority would be enforceable as of January 1, 2021.

CALED believes that most mandate and other concerns with SB 361 would be eliminated by the removal of Section 1 of the bill, and focusing the enhanced public transparency requirements in Section 2, on large projects which exceed \$100 million.

For these reasons, we regret that we must continue to oppose SB 361 in its current form. Thank you for your consideration and please feel free to contact me at 916-448-8252 with any questions.

Sincerely,

Gurbax Sahota
President & CEO

Cc: Chair and Members of Assembly Appropriations Committee