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AB-1999 Local government: public broadband services. (2017-2018)

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Assembly Bill No. 1999

CHAPTER 963

An act to amend Sections 25213, 53395.3.2, 53398.52, and 61100 of, and to add Article 12 (commencing with Section 53167) to Chapter 1 of Part 1 of Division 2 of Title 5 of, the Government Code, and to add Sections 10001.5, 12801.5, and 16461.10 to the Public Utilities Code, relating to local government.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1999, Chau. Local government: public broadband services.

(1) The County Service Area Law authorizes a county service area to provide any governmental services and facilities within the county service area that the county is authorized to perform, and that the county does not perform to the same extent on a countywide basis, and expressly authorizes a county service area to provide specified services and facilities, including, among others, television translator services and low-power television services.

This bill would expressly authorize a county service area to acquire, construct, improve, maintain, and operate broadband Internet access services, and would require a county service area that does so to take certain actions regarding the accessing of content on the Internet by end users of that service, as described below.

(2) Existing law authorizes any municipal corporation to acquire, construct, own, operate, or lease any public utility, and provides that "public utility" for these purposes means to supply the inhabitants of that municipal corporation with specified services, including a means of communication. Existing law similarly authorizes a municipal utility district and a public utility district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district with specified services, including a means of communication. Existing law, as described in more detail below, authorizes a community services district to construct, own, improve, maintain, and operate broadband facilities and to provide broadband services if certain conditions are met.

This bill would, except as provided, prohibit a local agency that is authorized to engage in the provision of broadband Internet access service, as defined, in the state from taking certain actions regarding the accessing of content on the Internet by end users.

(3) Existing law authorizes an infrastructure financing district to finance public capital facilities of communitywide significance that provide significant benefits to an area larger than the area of the district, including, among others, public capital facilities or projects that include broadband.

This bill would authorize an infrastructure financing district that finances public capital facilities or projects that include broadband to transfer the management and operation of any broadband facilities that were financed to a local agency that is authorized to

provide broadband Internet access service, and would require any local agency that receives those facilities to take certain actions regarding the accessing of content on the Internet by end users of that service, as described above.

(4) Existing law authorizes the legislative body of a city or a county to establish an enhanced infrastructure financing district to finance public capital facilities or other specified projects of communitywide significance. Existing law authorizes a district to finance, among other things, the purchase, construction, expansion, or rehabilitation of property and related planning and design work. Existing law prohibits a district from financing routine maintenance and repair work.

This bill would additionally authorize a district to finance capital facilities or projects of communitywide significance to acquire, construct, or improve broadband Internet access services. This bill would authorize a district that acquires, constructs, or improves broadband Internet access service to transfer the management and control of those services to a local agency that is authorized to provide broadband Internet access services, and would prohibit any local agency that receives management and control of those services from taking certain actions regarding the accessing of content on the Internet by end users of that service, as described above.

(5) The Community Services District Law authorizes the establishment of community services districts to provide various services to the geographic area within each district, including, among other things, if the district is unable to locate a private person or entity who is willing or able to provide broadband service, constructing, owning, improving, maintaining, and operating broadband facilities and providing broadband services. Existing law provides that if a community service district exercises this power and later a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate broadband facilities and to provide broadband services at a comparable cost and quality of service to what is provided by the district, then the district is required to either transfer title to the broadband facilities so constructed to the private entity at fair market value or to lease the operation of those broadband facilities at a fair market value to that private person or entity.

This bill would broaden that authorization by removing the requirement that a district first determine that a private person or entity is unwilling or unable to provide broadband services before the district may contract, own, improve, and operate broadband facilities and provide broadband services. The bill would authorize a district to transfer title to the broadband facilities so constructed, or to lease the operation of those facilities, to a private entity that the district determines is ready, willing, and able to provide those services at a comparable cost and quality of service to what is provided by the district.

(6) This bill would incorporate additional changes to Section 53398.52 of the Government Code proposed by SB 1078 and SB 1145 to be operative only if this bill and either or both SB 1078 and SB 1145 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25213 of the Government Code is amended to read:

25213. A county service area may provide any governmental service and facility within the county service area that the county is authorized to perform and that the county does not perform to the same extent on a countywide basis, including, but not limited to, services and facilities for any of the following:

- (a) Law enforcement and police protection.
- (b) Fire protection, fire suppression, vegetation management, search and rescue, hazardous material emergency response, and ambulances.
- (c) Recreation, including, but not limited to, parks, parkways, and open space.
- (d) Libraries.
- (e) Television translator stations and low-power television services.
- (f) Supplying water for any beneficial uses.
- (g) The collection, treatment, or disposal of sewage, wastewater, recycled water, and stormwater.
- (h) The surveillance, prevention, abatement, and control of pests, vectors, and vectorborne diseases.
- (i) The acquisition, construction, improvement, and maintenance, including, but not limited to, street sweeping and snow removal, of public streets, roads, bridges, highways, rights-of-way, easements, and any incidental works.
- (j) The acquisition, construction, improvement, maintenance, and operation of street lighting and landscaping on public property, rights-of-way, and easements.

(k) The collection, transfer, handling, and disposal of solid waste, including, but not limited to, source reduction, recycling, and composting.

(l) Funding for land use planning within the county service area by a planning agency established pursuant to Article 1 (commencing with Section 65100) of Chapter 3 of Title 7, including, but not limited to, an area planning commission.

(m) Soil conservation.

(n) Animal control.

(o) Funding for the services of a municipal advisory council established pursuant to Section 31010.

(p) Transportation.

(q) Geologic hazard abatement on public or private property or structures where the board of supervisors determines that it is in the public interest to abate geologic hazards.

(r) Cemeteries.

(s) The conversion of existing overhead electrical and communications facilities, with the consent of the public agency or public utility that owns the facilities, to underground locations pursuant to Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code.

(t) Emergency medical services.

(u) Airports.

(v) Flood control and drainage.

(w) The acquisition, construction, improvement, maintenance, and operation of community facilities, including, but not limited to, cultural facilities, child care centers, community centers, libraries, museums, and theaters.

(x) Open-space and habitat conservation, including, but not limited to, the acquisition, preservation, maintenance, and operation of land to protect unique, sensitive, threatened, or endangered species, or historical or culturally significant properties. Any setback or buffer requirements to protect open-space or habitat lands shall be owned by a public agency and maintained by the county service area so as not to infringe on the customary husbandry practices of any neighboring commercially productive agricultural, timber, or livestock operations.

(y) The abatement of graffiti.

(z) The abatement of weeds and rubbish.

(aa) The acquisition, construction, improvement, maintenance, or operation of broadband Internet access service. For purposes of this section, "broadband Internet access service" has the same meaning as defined in Section 53167. A county service area that acquires, constructs, improves, maintains, or operates broadband Internet access service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

SEC. 2. Article 12 (commencing with Section 53167) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 12. Public Broadband Services

53167. For purposes of this article:

(a) "Broadband Internet access service" means a mass-market retail service provided by a local agency in California by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. "Broadband Internet access service" also encompasses any service provided by a local agency in California that provides a functional equivalent of that service or that is used to evade the protections set forth in this article.

(b) "Edge provider" means any individual or entity that provides any content, application, or service over the Internet, and any individual or entity that provides a device used for accessing any content, application, or service over the Internet to an end user.

(c) "End user" means any individual or entity in California that uses a broadband Internet access service that is provided by a local agency.

(d) "Fixed broadband Internet access service" means any broadband Internet access service that serves end users primarily at fixed endpoints using stationary equipment. Fixed broadband Internet access service includes fixed wireless services, including fixed unlicensed wireless services, and fixed satellite services.

(e) "Local agency" means any agency of local government authorized by any other law to provide broadband internet access service, including the following:

- (1) A city.
- (2) A county service area.
- (3) A community services district.
- (4) A public utility district.
- (5) A municipal utility district.

(f) "Mobile broadband Internet access service" means any broadband Internet access service that serves end users primarily using mobile stations.

(g) "Network management practice" means a practice that has a primarily technical network management justification, but does not include other business practices.

(h) "Paid prioritization" means the management of a broadband provider's network to directly or indirectly favor some traffic over other traffic, including through the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, that either:

- (1) Is in exchange for consideration, monetary or otherwise, from a third party.
- (2) Done to benefit an affiliated entity.

(i) "Reasonable network management" means a network management practice that is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

53167.1. It is the intent of the Legislature that this article protect and promote the Internet as an open platform enabling consumer choice, freedom of expression, end-user control, competition, and the freedom to innovate without permission, thereby encouraging the deployment of advanced telecommunications capability and remove barriers to infrastructure investment.

53167.2. Except for reasonable network management, a local agency insofar as it is engaged in the provision of broadband Internet access service shall not block lawful content, applications, services, or nonharmful devices.

53167.3. Except for reasonable network management, a local agency insofar as it is engaged in the provision of broadband Internet access service shall not impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or use of a nonharmful device.

53167.4. A local agency insofar as it is engaged in the provision of broadband Internet access service shall not engage in paid prioritization.

53167.5. Except for reasonable network management, a local agency insofar as it is engaged in the provision of broadband Internet access service shall not unreasonably interfere with, or unreasonably disadvantage, either of the following:

(a) An end user's ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of the end user's choice.

(b) An edge provider's ability to make lawful content, applications, services, or devices available to an end user.

SEC. 3. Section 53395.3.2 of the Government Code is amended to read:

53395.3.2. (a) In addition to the projects authorized by Section 53395.3, any infrastructure financing district may finance public capital facilities or projects that include broadband. A district that finances public capital facilities or projects that include broadband may transfer the management and operation of any broadband facilities that were financed to a local agency that is authorized to provide broadband Internet access service, and that local agency when providing that service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

(b) For purposes of this section, "broadband" means communications network facilities that enable high-speed Internet access.

SEC. 4. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district shall not finance routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(16) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought.

(17) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(18) The acquisition, construction, or improvement of broadband Internet access service. For purposes of this section, "broadband Internet access services" has the same meaning as defined in Section 53167. A district that acquires, constructs, or improves broadband Internet access service may transfer the management and control of those facilities to a local agency that is authorized to provide broadband Internet access service, and that local agency when providing that service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low-, or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 4.1. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district shall not finance routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(16) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought.

(17) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(18) The acquisition, construction, or improvement of broadband Internet access service. For purposes of this section, "broadband Internet access services" has the same meaning as defined in Section 53167. A district that acquires, constructs, or improves broadband Internet access service may transfer the management and control of those facilities to a local agency that is authorized to provide broadband Internet access service, and that local agency when providing that service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 4.2. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(D) (i) The ongoing or capitalized costs to maintain public capital facilities financed in whole or in part by the district.

(ii) Notwithstanding clause (i), a district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance maintenance of any kind.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district shall not finance the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(16) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought.

(17) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(18) The acquisition, construction, or improvement of broadband Internet access service. For purposes of this section, "broadband Internet access services" has the same meaning as defined in Section 53167. A district that acquires, constructs, or improves broadband Internet access service may transfer the management and control of those facilities to a local agency that is authorized to provide broadband Internet access service, and that local agency when providing that service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low-, or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 4.3. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(D) (i) The ongoing or capitalized costs to maintain public capital facilities financed in whole or in part by the district.

(ii) Notwithstanding clause (i), a district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance maintenance of any kind.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district shall not finance the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(16) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought.

(17) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(18) The acquisition, construction, or improvement of broadband Internet access service. For purposes of this section, "broadband Internet access services" has the same meaning as defined in Section 53167. A district that acquires, constructs, or improves broadband Internet access service may transfer the management and control of those facilities to a local agency that

is authorized to provide broadband Internet access service, and that local agency when providing that service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 5. Section 61100 of the Government Code is amended to read:

61100. Within its boundaries, a district may do any of the following:

(a) Supply water for any beneficial uses, in the same manner as a municipal water district, formed pursuant to the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code. In the case of any conflict between that division and this division, the provisions of this division shall prevail.

(b) Collect, treat, or dispose of sewage, wastewater, recycled water, and storm water, in the same manner as a sanitary district, formed pursuant to the Sanitary District Act of 1923, Division 6 (commencing with Section 6400) of the Health and Safety Code. In the case of any conflict between that division and this division, the provisions of this division shall prevail.

(c) Collect, transfer, and dispose of solid waste, and provide solid waste handling services, including, but not limited to, source reduction, recycling, and composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.

(d) Provide fire protection services, rescue services, hazardous material emergency response services, and ambulance services in the same manner as a fire protection district, formed pursuant to the Fire Protection District Law, Part 2.7 (commencing with Section 13800) of Division 12 of the Health and Safety Code.

(e) Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

(f) Organize, promote, conduct, and advertise programs of community recreation, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

(g) Acquire, construct, improve, maintain, and operate street lighting and landscaping on public property, public rights-of-way, and public easements.

(h) Provide for the surveillance, prevention, abatement, and control of vectors and vectorborne diseases in the same manner as a mosquito abatement and vector control district formed pursuant to the Mosquito Abatement and Vector Control District Law, Chapter 1 (commencing with Section 2000) of Division 3 of the Health and Safety Code.

(i) Provide police protection and law enforcement services by establishing and operating a police department that employs peace officers pursuant to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(j) Provide security services, including, but not limited to, burglar and fire alarm services, to protect lives and property.

(k) Provide library services, in the same manner as a library district formed pursuant to either Chapter 8 (commencing with Section 19400) or Chapter 9 (commencing with Section 19600) of Part 11 of the Education Code.

(l) Acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works. A district shall not acquire, construct, improve, or maintain any work owned by another public agency unless that other public agency gives its written consent.

(m) Convert existing overhead electric and communications facilities, with the consent of the public agency or public utility that owns the facilities, to underground locations pursuant to Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of

the Streets and Highways Code.

(n) Provide emergency medical services pursuant to the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(o) Provide and maintain public airports and landing places for aerial traffic, in the same manner as an airport district formed pursuant to the California Airport District Act, Part 2 (commencing with Section 22001) of Division 9 of the Public Utilities Code.

(p) Provide transportation services.

(q) Abate graffiti.

(r) Plan, design, construct, improve, maintain, and operate flood protection facilities. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities within the boundaries of another special district that provides those facilities unless the other special district gives its written consent. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities in unincorporated territory unless the board of supervisors gives its written consent. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities within a city unless the city council gives its written consent.

(s) Acquire, construct, improve, maintain, and operate community facilities, including, but not limited to, community centers, libraries, theaters, museums, cultural facilities, and child care facilities.

(t) Abate weeds and rubbish pursuant to Part 5 (commencing Section 14875) of the Health and Safety Code. For that purpose, the board of directors shall be deemed to be a "board of supervisors" and district employees shall be deemed to be the "persons" designated by Section 14890 of the Health and Safety Code.

(u) Acquire, construct, improve, maintain, and operate hydroelectric power generating facilities and transmission lines, consistent with the district's water supply and wastewater operations. The power generated shall be used for district purposes, or sold to a public utility or another public agency that generates, uses, or sells electrical power. A district shall not acquire hydroelectric power generating facilities unless the facilities' owner agrees.

(v) Acquire, construct, improve, maintain, and operate television translator facilities.

(w) Remove snow from public streets, roads, easements, and rights-of-way. A district may remove snow from public streets, roads, easements, and rights-of-way owned by another public agency, only with the written consent of that other public agency.

(x) Provide animal control services pursuant to Section 30501 of the Food and Agricultural Code. Whenever the term "board of supervisors," "county," "county clerk," or "animal control officer" is used in Division 14 (commencing with Section 30501) of the Food and Agricultural Code, those terms shall also be deemed to include the board of directors of a district, a district, the general manager of the district, or the animal control officer of a district, respectively. A district shall not provide animal control services in unincorporated territory unless the county board of supervisors gives its written consent. A district shall not provide animal control services within a city unless the city council gives its written consent.

(y) Control, abate, and eradicate pests, in the same manner as a pest abatement district, formed pursuant to Chapter 8 (commencing with Section 2800) of Division 3 of the Health and Safety Code. A district's program to control, abate, or eradicate local pine bark beetle infestations shall be consistent with any required plan or program approved by the Department of Forestry and Fire Protection.

(z) Construct, maintain, and operate mailboxes on a district's property or rights-of-way.

(aa) Provide mail delivery service under contract to the United States Postal Service.

(ab) Own, operate, improve, and maintain cemeteries and provide interment services, in the same manner as a public cemetery district, formed pursuant to the Public Cemetery District Law, Part 4 (commencing with Section 9000) of Division 8 of the Health and Safety Code.

(ac) Finance the operations of area planning commissions formed pursuant to Section 65101.

(ad) Finance the operations of municipal advisory councils formed pursuant to Section 31010.

(ae) Acquire, own, improve, maintain, and operate land within or without the district for habitat mitigation or other environmental protection purposes to mitigate the effects of projects undertaken by the district.

(af) Construct, own, improve, maintain, and operate broadband facilities and provide broadband services. For purposes of this section, broadband has the same meaning as in subdivision (a) of Section 5830 of the Public Utilities Code. A district shall comply

with Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5 when providing broadband services pursuant to this subdivision. If the district later determines that a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate broadband facilities and to provide broadband services, and to sell those services at a comparable cost and quality of service as provided by the district, the district may do one of the following:

(1) Diligently transfer its title, ownership, maintenance, control, and operation of those broadband facilities and services at a fair market value to that private person or entity.

(2) Lease the operation of those broadband facilities at a fair market value to that private person or entity.

SEC. 6. Section 10001.5 is added to the Public Utilities Code, to read:

10001.5. A municipal corporation that provides broadband Internet access services shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 7. Section 12801.5 is added to the Public Utilities Code, to read:

12801.5. A district that provides broadband Internet access services shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 8. Section 16461.10 is added to the Public Utilities Code, to read:

16461.10. A district that provides broadband Internet access services shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 9. (a) Section 4.1 of this bill incorporates amendments to Section 53398.52 of the Government Code proposed by both this bill and Senate Bill 1078. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 53398.52 of the Government Code, and (3) Senate Bill 1145 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1078, in which case Sections 4, 4.2, and 4.3 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 53398.52 of the Government Code proposed by both this bill and Senate Bill 1145. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 53398.52 of the Government Code, (3) Senate Bill 1078 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1145 in which case Sections 4, 4.1, and 4.3 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 53398.52 of the Government Code proposed by this bill, Senate Bill 1078, and Senate Bill 1145. That section shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2019, (2) all three bills amend Section 53398.52 of the Government Code, and (3) this bill is enacted after Senate Bill 1078 and Senate Bill 1145, in which case Sections 4, 4.1, and 4.2 of this bill shall not become operative.