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AB-850 City property: sale of water utility property. (2021-2022)

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Assembly Bill No. 850

CHAPTER 705

An act to amend Section 37420.5 of the Government Code, relating to local government.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 850, Gallagher. City property: sale of water utility property.

Existing law, until January 1, 2022, authorizes the City of El Monte, the City of Montebello, and the City of Willows to sell its public utility for furnishing water service for the purpose of consolidating the system with another public water system if the potentially subsumed public water system is wholly within the boundaries of the city and the city determines that it is uneconomical and not in the public interest to own and operate the public utility, subject to additional requirements. Existing law prohibits the sale of the public utility or requires an election to be called for voters to approve the sale if a certain percentage of interested persons protest the sale of the public utility, and defines "interested person" to mean a person who is a resident of the city.

This bill would extend the authorization to consolidate water systems until January 1, 2024. The bill would delete the requirement that the potentially subsumed public water system be wholly within the boundaries of the city. The bill would revise the definition of "interested persons" specified above to include ratepayers outside of the city.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Cities of El Monte, Montebello, and Willows.

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

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

SECTION 1. Section 37420.5 of the Government Code is amended to read:

37420.5. (a) Notwithstanding Article 2 (commencing with Section 10051) of Chapter 1 of Division 5 of the Public Utilities Code, the City of El Monte, the City of Montebello, and the City of Willows may sell its public utility for furnishing water service pursuant to this article for the purpose of consolidating its public water system with another public water system only if the city determines that it is uneconomical and not in the public interest to own and operate the public utility for furnishing water service, subject to all of the following requirements:

(1) The legislative body of the city shall not sell the water utility property for less than its fair market value, as defined in Section 1263.320 of the Code of Civil Procedure.

(2) The legislative body of the city shall not sell the water utility property without a four-fifths vote of the city's legislative body.

(3) There are at least two water suppliers that provide drinking water to residents in the city prior to the sale.

(4) The city has deferred necessary maintenance for aging or failing water infrastructure of public water systems operated by the public utility. The necessity of the maintenance shall be demonstrated by a study conducted by an independent third party that evaluates performance of the system applying American Water Works Association standards or other equivalent standards.

(5) The receiving water system's service area borders the service area of the subsumed water system.

(6) The subsumed water system's customers shall not pay water rates different from customers already receiving service from the receiving water system. Consolidation of the water systems shall be economically feasible for the ratepayers of the subsumed water system. Ratepayers of the subsumed water system shall be notified of the applicable rate that will be in effect during the first year after consolidation has been completed. Any rate increases following the sale of a public utility for furnishing water service shall be phased in over time.

(7) Consolidation of the water systems is technically and economically feasible.

(8) (A) The legislative body of the city shall not sell its public utility for furnishing water service unless it considers oral and written protests at its second regularly scheduled meeting following the adoption of a resolution pursuant to Sections 37422 and publication pursuant to subparagraph (B). In addition to the requirements of Section 37422, the resolution shall allow 45 days for hearing protests to the sale and shall state the city's intended use of the sale proceeds. Notice of the sale may be given by including notice in the agency's regular billing statement. One written protest per parcel, filed by an owner or tenant of the parcel, shall be counted in calculating a protest. The city shall maintain all written protests for a minimum of two years following the date of the hearing to consider written protests.

(B) Notwithstanding Section 37423, the resolution shall be published at least once in a daily newspaper published and circulated in the city or, if there is none, the legislative body shall designate a newspaper published in the county. It shall also be posted for not less than 10 days in at least three conspicuous places in the city.

(C) (i) Notwithstanding Section 37425, if the legislative body of the city finds that protests have been filed by at least 10 percent of interested persons, the legislative body of the city shall call an election pursuant to Section 37427. If an election is called pursuant to this paragraph, the legislative body of the city shall not sell the public utility for furnishing water service unless the sale is approved by a majority of the city's registered voters voting on the issue.

(ii) If 50 percent or more of interested persons protest the sale of the public utility, the city shall not take further steps for the sale of the public utility. The city, after one year has passed, may sell the public utility if the requirements of this section are met, including adoption of a new resolution pursuant to subparagraph (A).

(iii) For purposes of this paragraph, "interested person" means a person who is a resident of the city, including a ratepayer outside the city, proposing to sell its public utility pursuant to this section.

(9) The legislative body of the city has adopted a resolution, at a regularly scheduled meeting, that paragraphs (1) to (8), inclusive, have been met.

(b) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2024, deletes or extends that date.

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances in the Cities of El Monte, Montebello, and Willows.