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AB-959 Park districts: ordinances: nuisances: abatement. (2021-2022)

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Assembly Bill No. 959

CHAPTER 268

An act to add Section 5558.5 to the Public Resources Code, relating to park districts.

[Approved by Governor September 23, 2021. Filed with Secretary of State September 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 959, Mullin. Park districts: ordinances: nuisances: abatement.

Existing law prescribes procedures, including the election of a board of directors, for the formation of regional park districts, regional park and open-space districts, or regional open-space districts. Existing law authorizes 3 or more cities, together with any parcel or parcels of city or county territory, whether in the same or different counties, to organize and incorporate, but requires that all the territory in the proposed district be contiguous. Existing law requires the board of directors to superintend, control, and make available to all the inhabitants of the district all public recreation lands and facilities, as provided. Existing law requires the board of directors to act only by ordinance, resolution, or a motion duly recorded in the minutes of a meeting of the board.

This bill would authorize the board of directors of a district, by ordinance, to declare that an encroachment onto district lands constitutes a nuisance. The bill would authorize a district that adopts such a nuisance ordinance to establish a nuisance abatement procedure, which would include notice and hearing requirements, and to collect abatement and related administrative costs and penalties, including through a nuisance abatement lien, as specified. The bill would authorize a county recorder to impose a fee on a district to reimburse the costs of processing and recording a nuisance abatement lien and providing notice. The bill would additionally authorize a district to initiate a civil action to abate a nuisance in the name of the district, as specified.

Existing law provides that a violation of an ordinance, rule, or regulation adopted by the board of directors of a district is a misdemeanor punishable by a fine or imprisonment in the county jail, as provided.

This bill would provide that the above provision does not apply to a violation of an ordinance adopted pursuant to the bill's provisions.

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

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

SECTION 1. Section 5558.5 is added to the Public Resources Code, to read:

5558.5. (a) By ordinance, a board of directors may declare that an encroachment onto district land constitutes a nuisance.

(b) (1) Upon adopting an ordinance pursuant to subdivision (a), the board of directors may, by ordinance, establish a nuisance abatement procedure to abate an encroachment onto district land that constitutes a nuisance and to collect abatement and

related administrative costs and penalties, including any costs incurred for providing notice or recording a nuisance abatement lien pursuant to this section.

(2) The nuisance abatement procedure shall do all of the following:

(A) (i) Require the district, upon initiating a nuisance abatement proceeding, to provide notice of the proceeding to any party who is responsible for the nuisance or who owns, or is in possession of, a parcel upon which the nuisance is located, created, caused, committed, or maintained.

(ii) In a nuisance abatement proceeding to obtain a nuisance abatement lien, the notice provided pursuant to this subparagraph shall be served in the same manner as summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure.

(iii) Notwithstanding clause (ii), in a nuisance abatement proceeding to obtain a nuisance abatement lien, if, after diligent search, a party who owns, or is in possession of, a parcel upon which the nuisance is located, created, caused, committed, or maintained cannot be found, the notice may be served by posting a copy of the notice in a conspicuous place on the parcel for a period of 10 days and publication of the notice in a newspaper of general circulation published in the county in which the parcel is located pursuant to Section 6062 of the Government Code.

(B) Require the district to provide a party who is responsible for the nuisance or who owns, or is in possession of, a parcel upon which the nuisance is located, created, caused, committed, or maintained with an opportunity to appear and be heard before the abatement of the nuisance by the district or the recordation of a nuisance abatement lien.

(3) The nuisance abatement procedure may authorize the board of directors to provide for the summary abatement of a nuisance, consistent with the requirements of paragraph (2), at the expense of a party who is responsible for the nuisance or who owns, or is in possession of, a parcel upon which the nuisance is located, created, caused, committed, or maintained.

(4) (A) The nuisance abatement procedure may authorize the board of directors to collect abatement and related administrative costs and penalties through a nuisance abatement lien against a parcel upon which the nuisance is located.

(B) The nuisance abatement lien shall be recorded in the county recorder's office in the county in which the parcel is located and, from the date of recording, shall have the force, effect, and priority of a judgment lien.

(C) The nuisance abatement lien shall specify the amount of the lien, the name of the district on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description, and assessor's parcel number of the parcel upon which the lien is imposed, and the name and address of the party who owns the parcel upon which the nuisance is located.

(D) If the nuisance abatement lien is discharged, released, or satisfied, notice of the discharge containing the information specified in subparagraph (C) shall be recorded by the district.

(E) The nuisance abatement lien and the discharge, release, or satisfaction of the lien shall be indexed in the grantor-grantee index.

(c) Notwithstanding Sections 6103 and 27383 of the Government Code or any other law, a county recorder may impose a fee on a district to reimburse the costs of processing and recording a nuisance abatement lien and providing notice pursuant to this section.

(d) A district may initiate a civil action to abate a nuisance in the name of the district, and, by the judgment in that action, the nuisance may be enjoined or abated and damages may be recovered, as provided in this section.

(e) A board of directors may, by ordinance, provide for the recovery of attorney's fees by the prevailing party in any civil action or nuisance abatement proceeding to abate a nuisance.

(f) Section 5560 does not apply to an ordinance adopted pursuant to this section.