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AB-1469 Santa Clara Valley Water District. (2023-2024)

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Assembly Bill No. 1469

CHAPTER 729

An act to amend Section 4 of, and to add Section 12.8 to, the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.

[Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1469, Kalra. Santa Clara Valley Water District.

The Santa Clara Valley Water District Act creates the Santa Clara Valley Water District, and authorizes the district to provide for the conservation and management of flood, storm, and recycled waters, and other waters, for beneficial uses and to enhance natural resources in connection with carrying out the purposes of the district.

Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines terms for these purposes. Existing law defines "surplus land" to generally mean land owned in fee simple by a local agency for which the local agency's governing body takes formal action in a public meeting declaring that the land is surplus and not necessary for the agency's use. Existing law defines "agency's use" to include land that is being used, is planned to be used pursuant to a written plan adopted by the local agency's governing board, or is disposed of to support agency work or operations. Existing law excludes from "agency's use" commercial or industrial uses or activities, or property disposed of for the sole purpose of investment or generation of revenue, unless the local agency is a district, except as specified, and the agency's governing body takes specified actions in a public meeting.

This bill would additionally authorize the district to take certain actions in order to assist unsheltered people living along streams, in riparian corridors, or otherwise within the district's jurisdiction, in consultation with a city or the County of Santa Clara to provide solutions or improve outcomes for the unsheltered individuals. The bill would require, if the district elects to use the above-described authority, the district to provide a report to the appropriate committees of the Legislature on or before July 1, 2029, and a subsequent report on or before July 1, 2034, containing specified information, including, among other things, the district's actions taken to assist unsheltered people. The bill would provide that the use of land by the district for these specified actions constitutes "agency's use" for purposes of the prescribed requirements related to the disposal of surplus land by a local agency, and would make this provision operative only if SB 747 of the 2023–24 Regular Session is enacted as provided.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Santa Clara.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The number of unhoused people in the County of Santa Clara has increased by 36 percent in the last five years, rising from 7,394 in 2017 to 10,028 in 2022, according to the Homeless Point-in-Time Count and Survey. In 2022, 77 percent of the unhoused population in the county were unsheltered, meaning they are living in vehicles, in abandoned buildings, on public lands, or on the street.

(b) Thousands of the unsheltered people in the County of Santa Clara live along creeks and streams, in the riparian corridors, where 294 miles of creekside lands are owned by the Santa Clara Valley Water District, an independent special district responsible for regional water supply, flood risk reduction, and environmental stewardship of waterways in the county.

(c) Encampments of unsheltered people along waterways are both a human and an environmental tragedy, causing deaths and negative health outcomes for unsheltered individuals, increased community risks from fires, and flooding due to blocked drainages and the excavation of banks and levees, as well as the degradation of water quality from litter and human waste.

(d) Nutrient loading of streams from human waste facilitates algal blooms that degrade natural and constructed habitats for aquatic species, including federally threatened fish species such as steelhead trout.

(e) The safe operation of water supply and flood risk reduction infrastructure in the County of Santa Clara requires vehicle access along pathways favored by encampments and requires the rapid release of water from upstream reservoirs, not only during storms, but often weeks before storms arrive, which may unintentionally flood encampments, endangering unsheltered people.

(f) Construction of flood risk reduction and water supply infrastructure, as well as environmental restoration and enhancement, requires closing certain areas to the public to protect life, safety, and the environment.

(g) As an independent special district, the Santa Clara Valley Water District's actions to address the human and operational challenges posed by encampments and to reduce environmental impacts are limited by the agency's authorities granted by the Santa Clara Valley Water District Act, as well as by the California Constitution's restrictions on the use of taxes and fees collected for water supply and flood protection for other purposes.

(h) The Santa Clara Valley Water District Board has long sought to increase resources that could be available to assist unsheltered people living along waterways and on other district properties to provide solutions, housing, or improved outcomes for the unsheltered individuals.

(i) In 2020, voters in the County of Santa Clara approved Measure S, a special tax that provides \$500,000 annually to the water district for cost-share agreements with local agencies for services related to cleanups of encampment litter and debris on waterways, in keeping with the district's limited mission. Those funds are limited and eroded by inflation, and the growing needs far exceed both the purpose and amount of funding provided by the special tax.

(j) In the case of *Martin v. City of Boise*, 920 F.3d 584, 616 (9th Cir. 2019), the United States Court of Appeals for the Ninth Circuit held that "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter." The United States Supreme Court declined to review the Ninth Circuit's decision, leaving it in effect in the western states covered by the Ninth Circuit, including California. *Martin v. City of Boise* has been interpreted to mean a de facto requirement to offer shelter before unsheltered people may be relocated from public lands, and failure to do so may result in the issuance of a temporary restraining order.

(k) Considering the Santa Clara Valley Water District's uncommon flood risk reduction responsibilities that are separate from county government, accounting for its location in one of the largest urban areas in the state, noting the large numbers of unsheltered people living on the public lands in riparian corridors, and citing evolving case law requiring the offer of shelter to relocate unsheltered people living on public land, there is a compelling need to expand the purposes of the Santa Clara Valley Water District to better assist unsheltered people, to fulfill the district's existing mission of comprehensive water supply, flood risk reduction, and environmental stewardship of streams, by providing solutions, housing, and improved outcomes for unsheltered people living on public lands and along waterways within the County of Santa Clara.

SEC. 2. Section 4 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Section 1 of Chapter 279 of the Statutes of 2006, is amended to read:

Sec.4. (a) The purposes of this act are to authorize the district to provide comprehensive water management for all beneficial uses and flood risk reduction within the County of Santa Clara.

(b) It is the intent of the Legislature that the district work collaboratively with other appropriate entities in the County of Santa Clara in carrying out the purposes of this act.

(c) The district may take action to do all of the following:

- (1) Reduce the risks to the County of Santa Clara from floodwater and stormwater of the district, including tidal floodwater and the floodwater and stormwater of streams that have their sources outside the district, but flow into the district.
- (2) Reduce the risks of floodwater or stormwater to the public highways, life and property in the district, and the watercourses and watersheds of streams flowing within the district.
- (3) Provide flood risk reduction and provide for the conservation and management of stormwater, recycled water, or other water from any sources within or outside the watersheds in which the district is located for beneficial and useful purposes, including spreading, storing, retaining, and causing the waters to percolate into the soil within the district.
- (4) Protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters.
- (5) Increase and prevent the waste or diminution of the water supply in the district.
- (6) Obtain, retain, protect, and recycle drainage, stormwater, floodwater, or treated wastewater, or other water from any sources, within or outside the watersheds in which the district is located for any beneficial uses within the district.
- (7) Enhance, protect, and restore streams, riparian corridors, and natural resources in connection with carrying out the purposes set forth in this section.
- (8) Assist unsheltered people living along streams, in riparian corridors, or otherwise within the district's jurisdiction, in consultation with a city or the County of Santa Clara to provide solutions or improve outcomes for the unsheltered individuals.
- (9) Preserve open space in the County of Santa Clara and support the county park system in a manner that is consistent with carrying out the powers granted by this section.

SEC. 3. Section 12.8 is added to the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), to read:

Sec. 12.8. (a) The district is authorized to take the following actions to assist unsheltered people living along streams, in riparian corridors, or otherwise within the district's jurisdiction, pursuant to paragraph (8) of subdivision (c) of Section 4:

- (1) Collect waste or biowaste.
- (2) Contract with a city, the County of Santa Clara, or the state to provide outreach, counseling, interim or long-term housing, public safety, or other services for unsheltered people.
- (3) Provide, develop, sell, or lease land for the purposes of constructing all of the following:
 - (A) A Low Barrier Navigation Center, as defined in Section 65660 of the Government Code.
 - (B) Supportive housing, as defined in Section 50675.14 of the Health and Safety Code.
 - (C) Transitional housing, as defined in subdivision (j) of Section 65582 of the Government Code, for youth and young adults. For purposes of this paragraph, "youth and young adults" means persons between 12 to 24 years of age, inclusive, and includes persons who are pregnant and parenting.
 - (D) Affordable housing. For purposes of this paragraph, "affordable housing" means a housing development with 100 percent of all units in the development, but exclusive of a manager's unit or units, sold or rented to lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.
 - (E) Emergency housing facilities, as defined in Parts 2 and 2.5, and Appendices P and AZ, of the California Building Standards Code (Title 24 of the California Code of Regulations), not used for housing that may be needed to assist unsheltered people, such as structures for counseling, storage of personal belongings, restrooms, or bathing facilities.
- (4) (A) Contract with nongovernmental entities to provide outreach, counseling interim or long-term housing, or other services for unsheltered people.
 - (B) Any contract between the district and a nongovernmental entity pursuant to subparagraph (A) shall be in coordination with a city, if applicable, the Continuum of Care, and the County of Santa Clara.
 - (C) Any housing developed pursuant to this authority shall be consistent with Housing First core components as defined in Section 8255 of the Welfare and Institutions Code.

(b) (1) The use of land pursuant to this section shall constitute "agency's use" for the purposes of Section 54221 of the Government Code.

(2) This subdivision shall only be operative if Senate Bill 747 of the 2023–24 Regular Session is enacted and amends Section 54221 of the Government Code.

(c) If the district elects to use the authority granted to it by this section, the district shall provide a report to the appropriate committees of the Legislature on or before July 1, 2029, and a subsequent report on or before July 1, 2034. The reports shall include a narrative description of how the authorizations in this section have been used to assist unsheltered people, the number of people housed, the number of housing projects developed and a description of each project, a description of any services provided to unsheltered people, and any written or oral public comments received at a duly noticed public hearing convened by the district not more than six months prior to the submittal of each report.

SEC. 4. 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 need of the Santa Clara Valley Water District to address the needs of the unhoused population within the district's jurisdiction in order to fulfill the district's mission of comprehensive water supply, flood risk reduction, and environmental stewardship of streams.