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AB-2457 Sacramento Municipal Utility District: nonstock security. (2023-2024)

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Assembly Bill No. 2457

CHAPTER 400

An act to amend Section 12773 of the Public Utilities Code, relating to the Municipal Utility District Act.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2457, McCarty. Sacramento Municipal Utility District: nonstock security.

The Municipal Utility District Act authorizes the formation of a municipal utility district and authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, electricity, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter.

Existing law authorizes the Sacramento Municipal Utility District to operate a pilot project, until January 1, 2025, to allow the board of directors of the district to hold nonstock security in a corporation or other private entity if acquired as part of a procurement of goods or services from that entity, if (1) no separate funding is expended solely for the nonstock security, and (2) the value of the nonstock security acquisition, at the time of the acquisition, does not exceed 3% of the district's annual revenue in the fiscal year the district makes the acquisition. Existing law authorizes the governing board of the district to sell or otherwise dispose of the nonstock security when, in its judgment, it is in the best interests of the district to do so. Existing law limits the pilot program to 3 acquisitions and requires that any profit or gain earned by the acquisitions be used to benefit the district's ratepayers.

This bill would increase the acquisition limit to 6 acquisitions. The bill would repeal the program on January 1, 2035, rather than January 1, 2025. The bill would authorize the board of directors of the district to also hold nonstock security in a corporation or other private entity as full or partial consideration for providing that entity services or access to district facilities.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Sacramento Municipal Utility District.

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

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

SECTION 1. Section 12773 of the Public Utilities Code is amended to read:

12773. (a) For purposes of this section, "security" has the same meaning as defined in Section 25019 of the Corporations Code.

(b) The Sacramento Municipal Utility District may operate a program under which the board of directors of the district may hold nonstock security in a corporation or other private entity if acquired as part of a procurement of goods or services from that entity, or as full or partial consideration for providing that entity services or access to district facilities, if separate funding is not expended solely for the nonstock security. The board of directors of the district may sell or otherwise dispose of the nonstock security when, in its judgment, it is in the best interests of the district to do so.

(c) Before exercising the authority described in subdivision (b), the district's board of directors shall do all of the following:

(1) Make all of the following findings:

(A) The acquisition furthers the purposes of the district, pursuant to this division.

(B) The acquisition is in the interest of the district's ratepayers and the public.

(2) Establish a policy governing acquisitions that includes, but is not limited to, all of the following:

(A) Procedures for preventing conflicts of interest and violations of Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code.

(B) Procedures for determining how much of an acquisition to accept in lieu of, or in addition to, other forms of remuneration, in order to ensure the district secures a reasonable return on any intellectual property or other resources it provides the private entity.

(C) Procedures governing the approval process for accepting any acquisitions.

(D) Procedures that ensure acquisition of a nonstock security does not unduly influence the amount paid for the associated goods and services.

(3) Post the policy described in paragraph (2) on the district's internet website.

(4) Adopt a resolution at a regular meeting of the board stating the intent of the board to exercise the authority described in subdivision (b).

(d) The authority described in subdivision (b) shall be limited to a total of six acquisitions. Any profit or other gain earned by an acquisition shall be used to benefit the district's ratepayers.

(e) The value, at the time of acquisition, of any single nonstock security acquired pursuant to the authority described in subdivision (b) shall be limited to no more than 3 percent of the district's annual revenue in the fiscal year the district makes the acquisition.

(f) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

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 needs of the Sacramento Municipal Utility District regarding nonstock security interests in private entities with which the district partners to further its purposes.