

Senate Bill No. 1191

CHAPTER 70

An act to amend Sections 61100 and 61105 of the Government Code, relating to local government.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1191, Alquist. Local government: community service districts.

(1) Existing law authorizes a community services district to be formed to, among other things, provide fire protection services, organize, promote, conduct, and advertise programs of community recreation, provide transportation services, abate graffiti, and construct, maintain, and operate mailboxes.

This bill would authorize a community services district to construct, own, improve, maintain, and operate broadband facilities and to provide broadband services, under specified circumstances, until 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 to the district and its property owners, residents, and visitors.

(2) Existing law provides that the Mountain House Community Services District is not authorized to operate television, cable, or telecommunications systems.

This bill would instead provide that the district is not authorized to operate television, cable, or telecommunications systems except as provided for community services districts with respect to broadband services.

The people of the State of California do enact as follows:

SECTION 1. 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) If a private person or entity is unable or unwilling to deploy broadband service, construct, own, improve, maintain, and operate broadband facilities and to 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. The district shall first make a reasonable effort to identify a private person or entity willing to deploy service. The authority granted by this subdivision shall expire when 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. At that time, the district shall 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. 2. Section 61105 of the Government Code is amended to read:

61105. (a) The Legislature finds and declares that the unique circumstances that exist in certain communities justify the enactment of special statutes for specific districts. In enacting this section, the Legislature intends to provide specific districts with special statutory powers to provide special services and facilities that are not available to other districts.

(b) (1) The Los Osos Community Services District may borrow money from public or private lenders and loan those funds to property owners within the district to pay for the costs of decommissioning septic systems and constructing lateral connections on private property to facilitate the connection of those properties to the district's wastewater treatment system. The district shall lend money for this purpose at rates not to exceed its cost of borrowing and the district's cost of making the loans. The district may require that the borrower pay the district's reasonable attorney's fees and administrative costs in the event that the district is required to take legal action to enforce the provisions of the contract or note securing the loan. The district may elect to have the debt payments or any delinquency collected on the tax roll pursuant to Section 61116. To secure the loan as a lien on real property, the district shall follow the procedures for the creation of special tax liens in Section 53328.3 of this code and Section 3114.5 of the Streets and Highways Code.

(2) (A) Except as otherwise provided in this paragraph, on and after January 1, 2007, the Los Osos Community Services District shall not undertake any efforts to design, construct, and operate a community wastewater collection and treatment system within, or for the benefit of, the district. The district shall resume those powers on the date specified in any resolution adopted pursuant to subdivision (j) of Section 25825.5.

(B) Nothing in this paragraph shall affect the district's power to do any of the following:

(i) Operate wastewater collection and treatment facilities within the district that the district was operating on January 1, 2006.

(ii) Provide facilities and services in the territory that is within the district, but outside the prohibition zone.

(iii) Provide facilities and services, other than wastewater collection and treatment, within the prohibition zone.

(C) Promptly upon the adoption of a resolution by the Board of Supervisors of the County of San Luis Obispo requesting this action pursuant to subdivision (h) of Section 25825.5, the district shall convey to the County of San Luis Obispo all retained rights-of-way, licenses, other interests in real property, funds, and other personal property previously acquired by the district in connection with construction projects for which the district awarded contracts in 2005.

(c) The Heritage Ranch Community Services District may acquire, construct, improve, maintain, and operate petroleum storage tanks and related facilities for its own use, and sell those petroleum products to the district's property owners, residents, and visitors. The authority granted by this subdivision shall expire when a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate petroleum storage tanks and related facilities, and sell those petroleum products to the district and its property owners, residents, and visitors. At that time, the district shall either (1) diligently transfer its title, ownership, maintenance, control, and operation of those petroleum tanks and related facilities at a fair market value to that private person or entity, or (2) lease the operation

of those petroleum tanks and related facilities at a fair market value to that private person or entity.

(d) The Wallace Community Services District may acquire, own, maintain, control, or operate the underground gas distribution pipeline system located and to be located within Wallace Lake Estates for the purpose of allowing a privately owned provider of liquefied petroleum gas to use the underground gas distribution system pursuant to a mutual agreement between the private provider and the district or the district's predecessor in interest. The district shall require and receive payment from the private provider for the use of that system. The authority granted by this subdivision shall expire when the Pacific Gas and Electric Company is ready, willing, and able to provide natural gas service to the residents of Wallace Lake Estates. At that time, the district shall diligently transfer its title, ownership, maintenance, control, and operation of the system to the Pacific Gas and Electric Company.

(e) The Cameron Park Community Services District, the El Dorado Hills Community Services District, the Golden Hills Community Services District, the Mountain House Community Services District, the Rancho Murieta Community Services District, the Salton Community Services District, the Stallion Springs Community Services District, and the Tenaja Meadows Community Services District, which enforced covenants, conditions, and restrictions prior to January 1, 2006, pursuant to the former Section 61601.7 and former Section 61601.10, may continue to exercise the powers set forth in the former Section 61601.7 and the former Section 61601.10.

(f) The Bear Valley Community Services District, the Bell Canyon Community Services District, the Cameron Estates Community Services District, the Lake Sherwood Community Services District, the Saddle Creek Community Services District, and the Wallace Community Services District may, for roads owned by the district and that are not formally dedicated to or kept open for use by the public for the purpose of vehicular travel, by ordinance, limit access to and the use of those roads to the landowners and residents of that district.

(g) Notwithstanding any other provision of law, the transfer of the assets of the Stonehouse Mutual Water Company, including its lands, easements, rights, and obligations to act as sole agent of the stockholders in exercising the riparian rights of the stockholders, and rights relating to the ownership, operation, and maintenance of those facilities serving the customers of the company, to the Hidden Valley Community Services District is not a transfer subject to taxes imposed by Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(h) The El Dorado Hills Community Services District and the Rancho Murieta Community Services District may each acquire, construct, improve, maintain, and operate television receiving, translating, or distribution facilities, provide television and television-related services to the district and its residents, or authorize the construction and operation of a cable television system to serve the district and its residents by franchise or license. In authorizing the construction and operation of a cable television system

by franchise or license, the district shall have the same powers as a city or a county under Section 53066.

(i) The Mountain House Community Services District may provide facilities for television and telecommunications systems, including the installation of wires, cables, conduits, fiber optic lines, terminal panels, service space, and appurtenances required to provide television, telecommunication, and data transfer services to the district and its residents, and provide facilities for a cable television system, including the installation of wires, cables, conduits, and appurtenances to service the district and its residents by franchise or license, except that the district may not provide or install any facilities pursuant to this subdivision unless one or more cable franchises or licenses have been awarded under Section 53066 and the franchised or licensed cable television and telecommunications services providers are permitted equal access to the utility trenches, conduits, service spaces, easements, utility poles, and rights-of-way in the district necessary to construct their facilities concurrently with the construction of the district's facilities. The district shall not have the authority to operate television, cable, or telecommunications systems, except as provided in Section 61100. The district shall have the same powers as a city or county under Section 53066 in granting a franchise or license for the operation of a cable television system.