

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 422**

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**Introduced by Senator Monning**

February 25, 2015

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An act to amend Sections ~~35100, 35103, 35120, and 35152 of, and to amend the heading of Division 26 (commencing with Section 35100) of, 35152 and 35153~~ of the Public Resources Code, relating to the Santa Clara Valley Open-Space ~~District~~. *Authority.*

LEGISLATIVE COUNSEL'S DIGEST

SB 422, as amended, Monning. Santa Clara Valley Open-Space ~~District~~. *Authority.*

Existing law creates the Santa Clara County Open-Space Authority, and prescribes the jurisdiction and functions and duties of the authority. Existing law authorizes the authority, among other things, to acquire, hold, and dispose of real and personal property, within the authority's jurisdiction, necessary to the full exercise of its powers. *Existing law further authorizes the authority to take by eminent domain any property necessary or convenient to accomplish the purposes of the authority, with the exception of lands in active ranching, lands in agricultural production, and lands in timberland production zones that are not threatened by imminent conversion to developed uses.*

~~This bill would change the name of the authority to the Santa Clara Valley Open-Space District, and would authorize the district would, in addition, authorize the authority to acquire, but not to take by eminent domain interests in real property that are either within the district's jurisdiction, part of a single property that is both within and adjacent to the district's jurisdiction, or within a watershed that includes lands within the district's jurisdiction where protection of those watershed~~

lands outside of the district’s jurisdiction is necessary to protect conservation values within the district’s jurisdiction. The bill would also make related conforming changes: *outside of the authority’s jurisdiction, necessary to the full exercise of its powers.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. ~~The heading of Division 26 (commencing with~~  
2 ~~Section 35100) of the Public Resources Code is amended to read:~~

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4 DIVISION 26. SANTA CLARA VALLEY OPEN-SPACE  
5 DISTRICT

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7 SEC. 2. ~~Section 35100 of the Public Resources Code is~~  
8 ~~amended to read:~~

9 35100. ~~This division shall be known, and may be cited, as the~~  
10 ~~Santa Clara Valley Open-Space District Act.~~

11 SEC. 3. ~~Section 35103 of the Public Resources Code is~~  
12 ~~amended to read:~~

13 35103. ~~“Authority” or “district” means the Santa Clara Valley~~  
14 ~~Open-Space District created pursuant to this division in the County~~  
15 ~~of Santa Clara. All references in this division and elsewhere in law~~  
16 ~~to the Santa Clara County Open-Space Authority shall mean and~~  
17 ~~refer to the Santa Clara Valley Open-Space District.~~

18 SEC. 4. ~~Section 35120 of the Public Resources Code is~~  
19 ~~amended to read:~~

20 35120. ~~The Santa Clara Valley Open-Space District is hereby~~  
21 ~~created. The maximum jurisdiction of the district shall include all~~  
22 ~~areas within the county, except those areas of the county presently~~  
23 ~~within the boundaries, including the sphere of influence, of the~~  
24 ~~Midpeninsula Regional Open-Space District. Each city situated~~  
25 ~~within the maximum jurisdictional boundaries shall pass a~~  
26 ~~resolution stating its intent to be included within the district’s~~  
27 ~~jurisdiction by January 15, 1993. These resolutions shall be~~  
28 ~~transmitted to the board of supervisors. Any city that fails to pass~~  
29 ~~that resolution or that formally states its intent to not participate~~  
30 ~~shall be excluded from the district’s jurisdiction. The creation of~~

1 the district is not subject to review by the Santa Clara County Local  
2 Agency Formation Commission.

3 ~~SEC. 5.~~

4 *SECTION 1.* Section 35152 of the Public Resources Code is  
5 amended to read:

6 35152. The ~~district~~ *authority* may take by grant, appropriation,  
7 purchase, gift, devise, condemnation, or lease, and may hold, use,  
8 enjoy, and lease or dispose of real and personal property of every  
9 kind, and rights in real and personal property, *within or outside of*  
10 *the authority's jurisdiction*, necessary to the full exercise of its  
11 powers. ~~Real property interests acquired by the district shall be~~  
12 ~~either within the district's jurisdiction, part of a single property~~  
13 ~~that is both within and adjacent to the district's jurisdiction, or~~  
14 ~~within a watershed that includes lands within the district's~~  
15 ~~jurisdiction where protection of those watershed lands outside the~~  
16 ~~district's jurisdiction is necessary to protect conservation values~~  
17 ~~within the district's jurisdiction.~~ The ~~district~~ *authority* may accept  
18 and hold open-space easements and purchase development credits  
19 wherever the ~~district~~ *authority* may acquire real property.

20 Priority for open-space acquisition should be focused on those  
21 lands closest, most accessible, and visible to the urban area. The  
22 remote ranchlands east of the westernmost ridgeline of the Diablo  
23 Range shall be acquired as permanent open space only through  
24 conservation easement purchases or the granting of lands or  
25 conservation easements by owners to the ~~district~~ *authority*.

26 Lands subject to the grant of an open-space easement executed  
27 and accepted by the ~~district~~ *authority* in accordance with this  
28 division are enforceably restricted within the meaning of Section  
29 8 of Article XIII of the California Constitution. An easement or  
30 other interest in real property may be dedicated for open-space  
31 purposes by the adoption of a resolution by the governing board,  
32 and any interest so dedicated may be conveyed only as provided  
33 in this section.

34 The ~~district~~ *authority* may not validly convey any interest in any  
35 real property actually dedicated and used for open-space purposes  
36 without the consent of a majority of the voters of the ~~district~~  
37 *authority* voting at a special election called by the governing board  
38 and held for that purpose. Consent need not first be obtained for  
39 a lease of any real property for a period not exceeding 25 years if

1 that real property remains in open-space or agricultural use for the  
2 entire duration of the lease.

3 *SEC. 2. Section 35153 of the Public Resources Code is*  
4 *amended to read:*

5 35153. The authority may exercise the right of eminent domain  
6 to take any property necessary or convenient to accomplish the  
7 purposes of this division, except that it shall not take lands in active  
8 ranching, lands in agricultural production, ~~or~~ lands in timberland  
9 production zones ~~which~~ *that* are not threatened by imminent  
10 conversion to developed uses, *or lands not within the authority's*  
11 *jurisdiction*. Furthermore, the authority shall not acquire any  
12 interest in real property by eminent domain unless the real property  
13 is contiguous to real property which is already owned by a public  
14 agency for open-space use. For purposes of this section, "owned"  
15 includes any lease or other contractual commitment to which the  
16 public agency is a party, to maintain the property in open-space  
17 use for a term of at least 25 years. The right of eminent domain  
18 may only be exercised upon the approval of a four-fifths vote of  
19 the governing board. If the property owner objects to the  
20 acquisition of his or her property by eminent domain, the property  
21 owner may, within 30 days of the governing board's vote, file a  
22 written objection with the legislative body of the city or county in  
23 which the property is located. If the property is located in more  
24 than one city or in the county and one or more cities, the property  
25 owner shall file his or her objection with the legislative body of  
26 the city or county which includes the larger portion of the property.  
27 If the property owner files a timely written objection, the legislative  
28 body shall consider the objection at a public hearing to be held  
29 within 45 days of its receipt. If the legislative body of a city  
30 upholds by a two-thirds vote, or the legislative body of a county  
31 upholds by a majority vote, the objection by determining that the  
32 acquisition is not in the best interests of the public within the  
33 authority's jurisdiction, the authority shall not exercise its right of  
34 eminent domain on that property.

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