

AMENDED IN ASSEMBLY JUNE 18, 2015

AMENDED IN SENATE APRIL 14, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 422**

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**Introduced by Senator Monning**  
**(Coauthor: Senator Beall)**  
(Coauthor: Assembly Member Mark Stone)

February 25, 2015

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An act to amend Sections 35100, 35101, 35103, 35120, 35152, and 35153 of, ~~and~~ to amend the heading of Division 26 (commencing with Section 35100) of, *and to add Section 35122 to*, the Public Resources Code, relating to the Santa Clara Valley Open-Space Authority.

LEGISLATIVE COUNSEL'S DIGEST

SB 422, as amended, Monning. Santa Clara Valley Open-Space 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. *Existing law provides that the maximum jurisdiction of the authority shall include all areas within the county, as provided.*

This bill ~~would, in addition,~~ *would* authorize the authority to acquire, but not to take by eminent ~~domain~~ *domain*, interests in real property that are without the authority’s jurisdiction, necessary to the full exercise of its powers. *The bill would also authorize the authority’s boundaries to be altered by the annexation of contiguous territory, in the unincorporated area of a neighboring county, as provided.* The bill would change the name of the authority to the Santa Clara Valley Open-Space Authority and make conforming changes.

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:

3  
4 DIVISION 26. SANTA CLARA VALLEY OPEN-SPACE  
5 AUTHORITY  
6

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 Authority Act.

11 SEC. 3. Section 35101 of the Public Resources Code is  
12 amended to read:

13 35101. The Legislature hereby finds and declares all of the  
14 following:

15 (a) In Santa Clara County, open-space preservation and creation  
16 of a greenbelt are immediate high priorities needed to counter the  
17 continuing and serious conversion of these lands to urban uses, to  
18 preserve the quality of life in the county, and to encourage  
19 agricultural activities.

20 (b) In order to deal in an expeditious manner with the current  
21 serious loss of these properties, the county needs to develop and  
22 implement a local funding program involving properties occupied  
23 for urban purposes which give rise to the need for open-space  
24 preservation that goes significantly beyond current existing funding  
25 that is not adequate to resolve these losses.

26 (c) It is in the public interest to create the Santa Clara Valley  
27 Open-Space Authority so that local open-space preservation and

1 greenbelting decisions can be implemented in a timely manner to  
2 provide for the acquisition and maintenance of these properties.

3 (d) All persons owning developed parcels enjoy the privilege  
4 of using, and benefit from, the availability of open space.

5 SEC. 4. Section 35103 of the Public Resources Code is  
6 amended to read:

7 35103. "Authority" means the Santa Clara Valley Open-Space  
8 Authority created pursuant to this division in the County of Santa  
9 Clara.

10 SEC. 5. Section 35120 of the Public Resources Code is  
11 amended to read:

12 35120. The Santa Clara Valley Open-Space Authority is hereby  
13 created on February 1, 1993. The maximum jurisdiction of the  
14 authority shall include all areas within the county, except those  
15 areas of the county presently within the boundaries, including the  
16 sphere of influence, of the ~~midpeninsula~~ *Midpeninsula* Regional  
17 Open-Space District. Each city situated within the maximum  
18 jurisdictional boundaries shall pass a resolution stating its intent  
19 to be included within the authority's jurisdiction by January 15,  
20 1993. These resolutions shall be transmitted to the board of  
21 supervisors. A city that fails to pass the resolution or that formally  
22 states its intent to not participate shall be excluded from the  
23 authority's jurisdiction. The creation of the authority is not subject  
24 to review by the Santa Clara County Local Agency Formation  
25 Commission.

26 SEC. 6. *Section 35122 is added to the Public Resources Code,*  
27 *to read:*

28 35122. *Notwithstanding Section 35120, after the establishment*  
29 *of the authority's boundaries, the boundaries of the authority may*  
30 *be altered by the annexation of contiguous territory, in the*  
31 *unincorporated area of a neighboring county, pursuant to the*  
32 *annexation process in the Cortese-Knox-Hertzberg Local*  
33 *Government Reorganizing Act of 2000 (Division 3 (commencing*  
34 *with Section 56000) of Title 5 of the Government Code). The board*  
35 *of supervisors of the neighboring county shall pass a resolution*  
36 *stating its intent to be included within the authority's jurisdiction*  
37 *before any territory in that county may be annexed to the authority.*

38 ~~SEC. 6.~~

39 SEC. 7. Section 35152 of the Public Resources Code is  
40 amended to read:

1 35152. (a) The authority may take by grant, appropriation,  
 2 purchase, gift, devise, condemnation, or lease, and may hold, use,  
 3 enjoy, and lease or dispose of real and personal property of every  
 4 kind, and rights in real and personal property, within or without  
 5 the authority's jurisdiction, necessary to the full exercise of its  
 6 powers. The authority may accept and hold open-space easements  
 7 and purchase development credits wherever the authority may  
 8 acquire real property.

9 ~~Priority~~

10 (b) *Priority* for open-space acquisition should be focused on  
 11 those lands closest, most accessible, and visible to the urban area.  
 12 The remote ranchlands east of the westernmost ridgeline of the  
 13 Diablo Range shall be acquired as permanent open space only  
 14 through conservation easement purchases or the granting of lands  
 15 or conservation easements by owners to the authority.

16 ~~Lands~~

17 (c) *Lands* subject to the grant of an open-space easement  
 18 executed and accepted by the authority in accordance with this  
 19 division are enforceably restricted within the meaning of Section  
 20 8 of Article XIII of the California Constitution. An easement or  
 21 other interest in real property may be dedicated for open-space  
 22 purposes by the adoption of a resolution by the governing board,  
 23 and any interest so dedicated may be conveyed only as provided  
 24 in this section.

25 ~~The~~

26 (d) *The* authority ~~may~~ shall not validly convey ~~any~~ an interest  
 27 in any real property actually dedicated and used for open-space  
 28 purposes without the consent of a majority of the voters of the  
 29 authority voting at a special election called by the governing board  
 30 and held for that purpose. Consent need not first be obtained for  
 31 a lease of any real property for a period not exceeding 25 years if  
 32 that real property remains in open-space or agricultural use for the  
 33 entire duration of the lease.

34 ~~SEC. 7.~~

35 *SEC. 8.* Section 35153 of the Public Resources Code is  
 36 amended to read:

37 35153. The authority may exercise the right of eminent domain  
 38 to take any property necessary or convenient to accomplish the  
 39 purposes of this division, except that it shall not take lands in active  
 40 ranching, lands in agricultural production, lands in timberland

1 production zones that are not threatened by imminent conversion  
2 to developed uses, or lands without the authority’s jurisdiction.  
3 Furthermore, the authority shall not acquire any interest in real  
4 property by eminent domain unless the real property is contiguous  
5 to real property ~~which~~ *that* is already owned by a public agency  
6 for open-space use. For purposes of this section, “owned” includes  
7 ~~any~~ *a* lease or other contractual commitment to which the public  
8 agency is a party, to maintain the property in open-space use for  
9 a term of at least 25 years. The right of eminent domain may only  
10 be exercised upon the approval of a four-fifths vote of the  
11 governing board. If the property owner objects to the acquisition  
12 of his or her property by eminent domain, the property owner may,  
13 within 30 days of the governing board’s vote, file a written  
14 objection with the legislative body of the city or county in which  
15 the property is located. If the property is located in more than one  
16 city or in the county and one or more cities, the property owner  
17 shall file his or her objection with the legislative body of the city  
18 or county ~~which~~ *that* includes the larger portion of the property.  
19 If the property owner files a timely written objection, the legislative  
20 body shall consider the objection at a public hearing to be held  
21 within 45 days of its receipt. If the legislative body of a city  
22 upholds by a two-thirds vote, or the legislative body of a county  
23 upholds by a majority vote, the objection by determining that the  
24 acquisition is not in the best interests of the public within the  
25 authority’s jurisdiction, the authority shall not exercise its right of  
26 eminent domain on that property.

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