

AMENDED IN SENATE FEBRUARY 12, 2004

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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1195

Introduced by Assembly Members Cohn and Mullin

February 21, 2003

~~An act to add Section 5563.6 to~~ *An act to amend Section 5563.5 of, and to add Section 5540.1 to, the Public Resources Code, relating to park and open-space districts, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1195, as amended, Cohn. ~~Midpeninsula Regional Open-Space~~ *Open Space* District: annexation project: eminent domain.

(1) Existing law establishes procedures for the formation of park and open-space districts, and prescribes the powers, functions and duties of those districts. Existing law authorizes a district to take by grant, appropriation, purchase, gift, devise, condemnation, or lease, and to hold, use, enjoy, and lease or dispose of real personal property of every kind, and rights in real and personal property within or without the district, to the full extent of its powers.

This bill would, notwithstanding those provisions, prohibit the Midpeninsula Regional ~~Open-Space~~ *Open Space* District from exercising the power of eminent domain to acquire any real property or interest in real property in the San Mateo County Coastal Annexation Area, as defined in a specified resolution adopted by the Board of Directors of the district. The bill would make legislative findings and

declarations with respect to the need for special legislation in the district.

(2) The bill would declare that it is to take effect immediately, as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 ~~SECTION 1. Section 5563.6 is added to the Public Resources~~
2 ~~Code, to read:~~

3 ~~5563.6.—~~

4 *SECTION 1. Section 5563.5 of the Public Resources Code is*
5 *amended to read:*

6 5563.5. Notwithstanding Sections 5540 and 5563, the Board
7 of Directors of the Midpeninsula Regional ~~Open-Space~~ *Open*
8 *Space* District may, and the Board of Directors of the East Bay
9 Regional Park District with respect to the Alameda Creek Quarries
10 located within the County of Alameda may, without obtaining the
11 consent of the voters, lease real property for a term not exceeding
12 50 years. A lease entered into pursuant to this section shall be
13 authorized by a resolution adopted by the affirmative votes of at
14 least two-thirds of the members of the board, upon making an
15 express finding that the purpose of the lease is for park or
16 open-space purposes, or for an historic preservation, recreation, or
17 agricultural purpose which is compatible with public use and
18 enjoyment of the real property.

19 *SEC. 2. Section 5540.1 is added to the Public Resources*
20 *Code, to read:*

21 5540.1. Notwithstanding Section 5540, the Midpeninsula
22 Regional ~~Open-Space~~ *Open Space* District shall not exercise the
23 power of eminent domain to acquire any real property or any
24 interest in real property in the San Mateo County Coastal
25 Annexation Area, as defined in the Resolution of Application for
26 Annexation Proceedings No. 03-20, which was adopted by the
27 Board of Directors of the Midpeninsula Regional ~~Open-Space~~
28 *Open Space* District on June 6, 2003.

29 *SEC. 2.* The Legislature finds and declares that a special law
30 is necessary and that a general law cannot be made applicable
31 within the meaning of Section 16 of Article IV of the California



1 Constitution because of the unique circumstances applicable only
2 to this proposed project of the Midpeninsula Regional ~~Open Space~~
3 *Open Space* District. The District has adopted an ordinance and
4 policy prohibiting the use of the power of eminent domain in an
5 area of San Mateo County currently proposed to be annexed to the
6 District. This policy was adopted due to the special and unique
7 circumstances of the particular annexation project and the
8 particular nature of the territory proposed for annexation, and in
9 response to input from a Citizens' Advisory Committee formed to
10 recommend policies particular to this proposed project. The
11 Legislature further finds and declares that the need to limit a
12 district's condemnation power is not common to all districts
13 formed under laws governing the formation, powers, and duties of
14 park and open-space districts and, therefore, warrants special
15 legislation.

16 SEC. 3. This act is an urgency statute necessary for the
17 immediate preservation of the public peace, health, or safety
18 within the meaning of Article IV of the Constitution and shall go
19 into immediate effect. The facts constituting the necessity are:

20 In order that the Midpeninsula Regional ~~Open Space~~ *Open*
21 *Space* District's policies regarding eminent domain for the
22 district's annexation project be incorporated in that project at the
23 earliest possible time, it is necessary that this act take effect
24 immediately.

