

Assembly Bill No. 1195

CHAPTER 27

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.

[Approved by Governor April 1, 2004. Filed with
Secretary of State April 1, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1195, Cohn. Midpeninsula Regional 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 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.

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

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

5563.5. Notwithstanding Sections 5540 and 5563, the Board of Directors of the Midpeninsula Regional Open Space District may, and the Board of Directors of the East Bay Regional Park District with respect to the Alameda Creek Quarries located within the County of Alameda may, without obtaining the consent of the voters, lease real property for a term not exceeding 50 years. A lease entered into pursuant to this section shall be authorized by a resolution adopted by the affirmative votes of at least two-thirds of the members of the board, upon



making an express finding that the purpose of the lease is for park or open-space purposes, or for an historic preservation, recreation, or agricultural purpose which is compatible with public use and enjoyment of the real property.

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

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

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances applicable only to this proposed project of the Midpeninsula Regional Open Space District. The district has adopted an ordinance and policy prohibiting the use of the power of eminent domain in an area of San Mateo County currently proposed to be annexed to the district. This policy was adopted due to the special and unique circumstances of the particular annexation project and the particular nature of the territory proposed for annexation, and in response to input from a Citizens' Advisory Committee formed to recommend policies particular to this proposed project. The Legislature further finds and declares that the need to limit a district's condemnation power is not common to all districts formed under laws governing the formation, powers, and duties of park and open-space districts and, therefore, warrants special legislation.

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

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

