

Date of Hearing: June 17, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Brian Maienschein, Chair  
SB 422 (Monning) – As Amended April 14, 2015

**SENATE VOTE:** 34-0

**SUBJECT:** Santa Clara Valley Open-Space Authority.

**SUMMARY:** Makes changes to the Santa Clara County Open Space Authority (Authority) Act and authorizes the Authority to acquire real and personal property outside its boundaries. Specifically, **this bill:**

- 1) Authorizes the Authority to hold, use, enjoy, and lease or dispose of real and personal property and rights in real and personal property without the Authority's jurisdiction.
- 2) Prohibits the Authority from exercising the right of eminent domain to take property without the Authority's jurisdiction.
- 3) Renames the Authority from the Santa Clara County Open Space Authority to the Santa Clara Valley Open Space Authority.
- 4) Makes other technical and conforming changes.

**EXISTING LAW:**

- 1) Establishes the Santa Clara County Open Space Authority Act, and defines the formation, powers, board, and funding for the Authority.
- 2) Allows the Authority to take by grant, appropriation, purchase, gift, devise, condemnation, or lease, and may hold, use, enjoy, and lease or dispose of real and personal property of every kind, and rights in real and personal property, within the Authority's jurisdiction, necessary to exercise its powers.
- 3) Allows the Authority to accept and hold open-space easements and purchase development credits.
- 4) Allows the Authority to exercise the right of eminent domain to take property necessary or convenient to accomplish the purposes of the Act, but prohibits the Authority from using eminent domain to take lands in active ranching, agricultural production, or in timberland protection zones that are not threatened by imminent conversion to developed uses.
- 5) Prohibits the Authority from using eminent domain, unless the real property is contiguous to property which is already owned by a public agency for open-space use.

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **The Authority.** SB 2027 (Mello), Chapter 822, Statutes of 1992, established the Santa Clara County Open Space Authority Act (Act). The Act creates the Authority to preserve open space and create greenbelts in order to counter the conversion of lands into urban uses. The Act requires the Authority to prioritize acquiring land closest and most accessible and visible to the urban area. According to Santa Clara County Local Agency Formation Commission's (Santa Clara LAFCO) municipal service review adopted in 2013, the Authority owns 12,792 acres of land and has assisted in preserving an additional 3,103 acres of conservation easements and mitigation lands, including open space, parklands, wildlife areas, recreation areas, and watershed areas.

The formation of the Authority was not subject to review by Santa Clara LAFCO. The Act established the boundaries of the Authority to include all of Santa Clara County, except the land within the boundaries of Midpeninsula Regional Open Space District's sphere of influence, and the City of Gilroy which did not pass a resolution to be included in the Authority. The Authority's boundary encompasses 1,067 square miles and includes the cities of Milpitas, Santa Clara, Campbell, San Jose and Morgan Hill.

The majority of the Authority's funding is derived from benefit assessments. As an additional revenue stream, the Authority also placed Measure Q, a parcel tax measure, on the ballot in 2014, which was passed by the voters. Additionally, the Authority has identified potential grant moneys as the funding that would allow them to acquire land outside its boundaries, should the Legislature grant them that power. An area of interest for the Authority is the Pajaro Watershed, located primarily in San Benito County, as well as extended into Santa Cruz and Monterey Counties. The Watershed is part of the larger Soap Lake Floodplain project, an area outside its boundaries, where the Authority can continue to be involved in protecting the agricultural lands and natural habitats in the larger regional area. Because these watershed boundaries are geographic and do not follow political or jurisdiction boundaries, the Authority has continued to highlight the importance of regional collaboration in an effort to protect open-space, wildlife habitat, and to safeguard natural water resources.

- 2) **Bill Summary.** Current law allows the Authority to acquire land inside its boundaries. This bill expands the powers of the Authority (Authority) to acquire, hold, use, enjoy, and lease or dispose of real and personal property, and rights in real and personal property outside its boundaries. Additionally, this bill prohibits the Authority from using eminent domain to take property outside the Authority's boundaries, and changes the name of the Santa Clara County Open Space Authority to the Santa Clara Valley Open Space Authority. This bill is sponsored by the Authority.
- 3) **Author's Statement.** According to the author, "By allowing the Authority to update its name and acquire and manage lands outside its district, efforts to conserve the region's natural environment, support agriculture and connect people with nature move forward."
- 4) **Policy Consideration.** Current law allows some special districts that are engaged in open-space preservation to acquire property interests both within and outside of those districts' boundaries. For example, the enabling act governing regional park districts, regional parks and open-space districts, and regional open-space districts allows those districts to acquire

real and personal property “within or without the district” and to annex contiguous territory through the LAFCO process. Therefore, if an open-space district purchases territory outside its boundaries, they are able to later submit an application to LAFCO to annex that territory into their district.

This bill would authorize the Authority to purchase land outside its boundaries, but does not allow for a change to the Authority's boundaries which is limited to Santa Clara County in current law. Therefore, even if the Authority purchases land contiguous to its current boundary but in another county, the Authority will not be able to later annex that territory into its boundaries. The Committee may wish to consider also allowing the Authority to expand its boundaries into neighboring counties, pursuant to the established LAFCO annexation process.

- 5) **Arguments in Support.** Supporters argue that this bill will conform the Authority's power to those of other open-space districts, and enable the Authority to further its mission to protect the region's wildlife habitat and water supplies, and provide greater benefits to the residents of Santa Clara County. Additionally, this bill would change the name of the Authority, as the term "County" in the current name has led potential partners and members of the public to believe the Authority is a part of Santa Clara County government. As a result of this misinterpretation, the Authority wants to clarify its name to better reflect it as a standalone special district operating in the Santa Clara Valley.
- 6) **Arguments in Opposition.** None on file.
- 7) **Committee Amendment.** In response to the policy consideration raised in comment 4), above, the Committee may wish to ask the author to accept an amendment that would allow the Authority, pursuant to the annexation process established in the Cortese-Knox-Hertzberg Act, to annex contiguous territory into its boundaries. The committee amendment would be permissive and allow the board of supervisors in the neighboring counties (Santa Cruz, San Benito, and Monterey) to pass a resolution to allow for potential inclusion into the Authority, pursuant to the LAFCO process to annex territory into the Authority.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

**Opposition**

Santa Clara Open Space Authority [SPONSOR]  
East Bay Regional Park District  
Guadalupe-Coyote Resource Conservation District  
Land Trust of Santa Cruz County  
Midpeninsula Regional Open Space District  
Napa County Regional Park and Open Space District  
Peninsula Open Space Trust  
Santa Clara Valley Water District  
San Francisco Public Utilities Commission  
San Mateo County Department of Parks  
The Nature Conservancy

None on file

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