

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2682 (Kalra) – As Amended April 16, 2024

SUBJECT: Santa Clara Valley Open-Space Authority.

SUMMARY: This bill make a number of changes to laws governing the Santa Clara Valley Open-Space Authority (Authority). Specifically, **this bill:**

- 1) Clarifies that the Authority may acquire remote ranchlands east of the westernmost ridgeline of the Diablo Range as permanent open space only *from willing sellers* through conservation easement *or fee title* purchases, *or* the granting of lands or conservation easements by owners to the Authority.
- 2) Requires a contract for any supplies, equipment, or materials, that exceeds \$50,000, instead of \$25,000, to be contracted for and let to the lowest responsible bidder.
- 3) Specifies that a contract of \$100,000, instead of \$75,000, or less may be let by informal bidding procedures, but a contract of more than \$100,000, instead of \$75,000 shall be let by formal bidding procedures.
- 4) Authorizes the governing board of the Authority to appoint a general manager to be the chief administrative officer of the authority. The governing board may authorize the general manager to bind the Authority, in accordance with the governing board’s policy adopted in an open meeting and without advertising, for contracts not exceeding \$50,000. All expenditures related to contracts approved by the general manager shall be reported to the governing board at its next regular meeting.
- 5) Specifies that the Authority may finance facilities and issue bonds pursuant to the Mello-Roos Community Facilities Act of 1982.
- 6) Revises and recasts the Authority’s ability to impose special taxes, specifying that the Authority may impose qualified special taxes within the Authority’s jurisdiction, subject to existing constitutional requirements, pursuant to procedures established in existing law.
- 7) Defines “qualified special taxes” as special taxes that apply uniformly to all taxpayers or all real property within the Authority’s jurisdiction, except that unimproved property may be taxed at a lower rate than improved property. “Qualified special taxes” may include taxes that provide an exemption from those taxes for any or all of the following taxpayers:
 - a) Persons who are 65 years of age or older.
 - b) Persons receiving Supplemental Security Income for a disability, regardless of age.
 - c) Persons receiving Social Security Disability Insurance benefits, regardless of age, whose yearly income does not exceed 250% of the 2012 federal poverty guidelines issued by the United State Department of Health and Human Services.

- 8) Specifies that “qualified special taxes” does not include special taxes imposed on a particular class of property or taxpayers.
- 9) Provides that any exemption pursuant to 7) above, shall remain in effect until the taxpayer becomes ineligible. If the taxpayer becomes ineligible for the exemption for any reason, a new exemption may be granted in the same manner.
- 10) Specifies that if the Authority provides for an exemption for a qualified special tax, and the Authority contracts or enters into an agreement with the county to collect the qualified special tax within the Authority’s jurisdiction, the Authority shall annually provide the tax collector of that county all of the following information:
 - a) A hyperlink to the location on the internet website of the Authority that contains exemption information, if available
 - b) A hyperlink to the location on the internet website of the Authority that contains the application for the exemption, if available.
 - c) A telephone number to provide persons with exemption information or direct persons requesting exemption information.
- 11) Provides that if a county contracts or enters into an agreement with the Authority to collect a qualified special tax for the Authority and for which the Authority provides an exemption, the tax collector of the county shall include a hyperlink, which shall be identified as “Parcel Tax Exemptions,” on the tax collector’s internet website home page to another location on the tax collector’s internet website that posts the hyperlinks and information provided by the Authority in 10) above.
- 12) Specifies that 11) above, shall only apply when the Authority provides information to the tax collector required by 10) above. The tax collector shall not post any hyperlink to a location on the Authority’s internet website that is invalid.

EXISTING LAW:

- 1) Provides that the Authority may 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 or without the Authority’s jurisdiction, necessary to the full exercise of its powers. The Authority may accept and hold open-space easements and purchase development credits wherever the authority may acquire real property [Public Resources Code (PRC) § 35152].
- 2) Specifies that the priority for open-space acquisition by the Authority should be focused on those lands closest, most accessible, and visible to the urban area. The remote ranchlands east of the westernmost ridgeline of the Diablo Range shall be acquired as permanent open space only through conservation easement purchases or the granting of lands or conservation easements by owners to the authority (PRC § 35152).
- 3) Provides that lands subject to the grant of an open-space easement executed and accepted by the Authority are enforceably restricted within the meaning of Section 8 of Article XIII of the California Constitution. An easement or other interest in real property may be dedicated for

open-space purposes by the adoption of a resolution by the governing board, and any interest so dedicated may be conveyed only as specified (PRC § 35152).

- 4) Specifies that the Authority shall not validly convey an interest in any real property actually dedicated and used for open-space purposes without the consent of a majority of the voters of the Authority voting at a special election called by the governing board and held for that purpose. Consent need not first be obtained for a lease of any real property for a period not exceeding 25 years if that real property remains in open-space or agricultural use for the entire duration of the lease (PRC § 35152).
- 5) Provides that the governing board of the Authority may contract with any person or public agency for any services, supplies, equipment, or materials, or for the construction or completion of any building, structure, or improvement (PRC § 35159).
- 6) Specifies that, notwithstanding any other laws, a contract by the Authority for any supplies, equipment, or materials, that exceeds \$25,000 shall be contracted for and let to the lowest responsible bidder. If two or more bids are the same and the lowest, the governing board may accept the one it chooses. A contract of \$75,000 or less may be let by informal bidding procedures, but a contract of more than \$75,000 shall be let by formal bidding procedures (PRC § 35159).
- 7) Provides that the notice inviting bids, pursuant to 6) above, shall set a date for the opening of bids. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids. For purposes of contracts requiring formal bidding, notice shall be published at least twice, at least five days apart, in a newspaper of general circulation in the Authority, or if there is none, it shall be posted in at least three public places in the Authority. The notice shall distinctly state the nature of the contract (PRC § 35159).
- 8) Authorizes the Authority to impose a special tax. The special taxes shall be applied uniformly to all taxpayers or all real property within the Authority, except that unimproved property may be taxed at a lower rate than improved property (PRC § 35172).

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bill Summary.** This bill clarifies that the Authority may acquire remote ranchlands east of the westernmost ridgeline of the Diablo Range as permanent open space only *from willing sellers* through conservation easement *or fee title* purchases, *or* the granting of lands or conservation easements by owners to the Authority. This bill specifies that the Authority to finance facilities and issue bonds pursuant to the Mello-Roos Community Facility Act of 1982. This bill also revises and recasts the Authority's ability to impose special taxes and allows the Authority to provide exemptions from those taxes, as specified.

This bill increases the amount by which a contract for supplies, equipment, or materials may be contracted for and let to the lowest responsible bidder, from \$25,000 to \$50,000. Additionally, this bill also increases the amount by which a contract may be let by informal bidding procedures from, \$75,000 to \$100,000 or less. It also increases the amount by which a contract may be let by formal bidding procedures, from more than \$75,000 to \$100,000.

Lastly, this bill allows the Authority to appoint a general manager and allows the Authority's general manager to bind the Authority, without advertising, for contracts not exceeding \$50,000. The Authority is the sponsor of this bill.

- 2) **Author's Statement.** According to the author, "AB 2682 will provide flexibility with open space acquisition in the Diablo Range by allowing the Authority to purchase lands in fee title in this area from willing sellers. In addition, the bill will update its expenditure authority to keep up with rising costs and allow the Authority to employ CFDs for revenue financing, like other jurisdictions. These amendments will provide greater efficiencies to the Authority and help facilitate their mission to conserve the natural environment, support sustainable agriculture, and connect people to nature."
- 3) **Santa Clara Valley Open-Space Authority.** SB 2027 (Mello), Chapter 822, Statutes of 1992, established the 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 the Authority, since 1993, the Authority has protected over 28,000 acres of open space, natural areas, watersheds, and wildlife habitat.

The Authority's jurisdiction includes the cities of Campbell, Milpitas, Morgan Hill, San Jose, and Santa Clara and the unincorporated areas of Santa Clara County. The Authority is funded through a \$24 a year parcel tax (referred to as Measure T), a benefit assessment, and various grants and gifts. The Authority is governed by a seven-member Board of Directors elected to four-year terms. Each director represents one of the Authority's seven governing districts.

- 4) **Parcel Taxes.** One common form of local tax is the parcel tax, which can be imposed by cities, counties, or special districts, like school districts. Parcel taxes are not *ad valorem* or assessed based on the value of a property like property taxes; instead they are generally a flat rate assessed per parcel regardless of its size, or per square foot of a parcel or its improvements. Agencies can generally use revenues from a parcel tax in almost any way that serves local needs, such as ongoing expenses, programs, or buildings. Counties collect parcel taxes with property taxes, and then remit funds to the agency imposing the parcel tax. Property tax law generally guides parcel tax collection.

The Legislature allowed school and community college districts to impose qualified special taxes that applied uniformly, to all taxpayers or real property within the district, but allowed districts to exempt persons over the age of 65 from the tax [AB 1440 (Hannigan), Chapter 100, Statutes of 1987]. In 2006, the Legislature allowed school districts to also exempt persons receiving Supplemental Security Income regardless of age [AB 385 (Lieber), Chapter 41, Statutes of 2006], and persons receiving Social Security Disability Insurance, whose yearly income was less than 250% of 2012 federal poverty guidelines [SB 874 (Hancock), Chapter 791, Statutes of 2012].

AB 2458 (Weber), Chapter 391, Statutes of 2018, required school districts that provide an exemption to its qualified special tax, and either contract or enter into an agreement with the county to collect the tax, to annually send to the county tax collector the following information:

- a) A hyperlink to the location on the Internet Web site of the school district that contains exemption information, if available.

- b) A hyperlink to the location on the Internet Web site of the school district that contains the application for the exemption, if available.
 - c) A phone number to provide persons with exemption information or direct persons requesting exemption information.
- 5) **Mello-Roos.** The Mello-Roos Community Facilities Act allows counties, cities, special districts, and school districts to levy special taxes (parcel taxes) to finance a wide variety of public works, including parks, recreation centers, schools, libraries, child care facilities, and utility infrastructure. A Mello-Roos Community Facilities Districts (CFD) issues bonds against these special taxes to finance the public works projects.

To initiate the formation of a CFD, a local agency's legislative body must adopt a resolution of intention to establish the district, which must do all of the following: describe the district's boundaries; describe the facilities and services proposed to be financed; state that a special tax, secured by a lien against real property, will be annually levied; specify, in detail, the rate, method of apportionment, and manner of collections of the special tax; and, fix a time and place for public hearing. After holding the hearing and considering protests, the legislative body, to establish the CFD, must adopt a resolution of formation containing all of the information provided in the resolution of intention; and, if a special tax is to be levied, include additional information about the tax levy.

- 6) **Previous Legislation.** AB 2388 (Beall), Chapter 259, Statutes of 2012, changed the Santa Clara Open-Space Authority's contract requirements for supplies, equipment, or materials, as follows: (1) increased, from \$10,000 to \$25,000, the threshold at which the Authority must award contracts to the lowest responsible bidder and (2) increased, from \$50,000 to \$75,000, the threshold at which the Authority must award contracts through formal bidding procedures, among other provisions.

SB 422 (Monning), Chapter 99, Statutes of 2015, changed the name of the Authority, authorized the Authority to acquire interest in real property located outside of its boundaries, and authorized the Authority's boundaries to be altered by the annexation of contiguous territory in the unincorporated area of a neighboring county.

- 7) **Arguments in Support.** According to the Authority, "The Open Space Authority is a public, independent special district created by the California State Legislature in 1993, as Division 26 of the Public Resources Code (PRC), commencing with Section 35100, with the mission to conserve the natural environment, support agriculture, and connect people to nature by protecting open spaces, natural areas, and working farms and ranches for future generations. The Authority enjoys its own unique statute while sister agency regional park, park and open space, and open space districts are governed by PRC § 5500. Accordingly, the Authority has pursued amendments over the years to modify the original Enabling Act in 2007, 2012, 2015, and lastly in 2019 to provide new financing and program authorities as well as to formally change the name of the Authority to its current version.

"AB 2682 is seeking to amend sections of Division 26 to further facilitate the Authority's mission. The proposed amendments would enable greater open space protection in the Diablo

Range, update General Manager expenditure authority to keep up with rising costs, and provide a new power to the Authority to employ Community Facilities Districts for revenue financing, similar the power that other open space districts have.

“In addition, AB 2682 is providing the Authority with the power to facilitate exemptions to proposed property taxes assessed by the Authority so that seniors and fixed-income and low-income Californians can receive some financial relief as costs everywhere continue to rise. Currently, PRC § 35172 requires the Authority to assess special taxes in a uniform manner, a requirement that is imposed on some other special districts assessing taxes. In the 2018 legislative session, AB 2458 (Weber) granted school districts with the authority to exempt certain individuals, the same exemption that the Authority seeks in AB 2682. AB 2682 follows precedent set by AB 2458 to bring financial relief to some of our most burdened Californians.”

8) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Santa Clara Valley Open-Space Authority [SPONSOR]
California Special Districts Association
Santa Clara Valley Water District

Opposition

None on file

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