

Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 948 (Kalra) – As Amended March 26, 2019

SUBJECT: Coyote Valley Conservation Program.

SUMMARY: Allows the Santa Clara Valley Open-Space Authority (Authority) to establish and administer the Coyote Valley Conservation Program to address the resource and recreational goals of the Coyote Valley. Specifically, **this bill:**

- 1) Allows the Authority to establish and administer the Coyote Valley Conservation Program to address the resource and recreational goals of the Coyote Valley, as provided in this bill.
- 2) Allows the Authority to collaborate with state, regional, and local partners to help achieve all of the following goals of the program:
 - a) To provide recreational opportunities, preserve open space, develop and maintain trails, restore, enhance, and preserve wildlife habitat and species, restore and preserve wetlands and agricultural lands, study, maintain, and preserve lands for groundwater recharge, watershed restoration, and natural floodwater conveyance, sequester greenhouse gases, and enhance resilience to climate change; and,
 - b) To provide public access to, and enjoyment and enhancement of, recreational and educational experiences on, program lands in a manner consistent with the protection of land and natural resources in the area.
- 3) Provides that, in carrying out the purposes of this bill, and without limiting the express or implied powers of the Authority as provided in its governing statutes, the Authority shall have, and may exercise, all necessary rights and powers, expressed or implied, to achieve the goals of this bill.
- 4) Allows, without limitation, the Authority to do all of the following:
 - a) Acquire and dispose of interests and options in real property;
 - b) Undertake, maintain, or fund projects to implement site improvements, upgrade deteriorating facilities, or construct new facilities for outdoor recreation, public access, nature appreciation, and interpretation; historic and cultural preservation; protection, restoration, or enhancement of natural resources and habitat; or continuation or expansion of agricultural activities;
 - c) Provide technical assistance to landowners on practices to enhance the carbon sequestration or climate resilience benefits of natural and working lands;
 - d) Enhance wildlife connectivity across Highway 101, Monterey Road and other impediments to the movement of wildlife in the Coyote Valley through implementation

of wildlife friendly culverts and overpasses, removal of fencing, and placement of wildlife crossing signage, or other means; and,

- e) Provide for the management of program lands.
- 5) Requires a proponent or party to a proposed development project converting natural lands or working lands within Coyote Valley for a nonagricultural purpose to provide notice to the Authority of the proposed project. The Authority may provide analysis of the environmental values and potential impacts of the proposed project.
 - 6) Requires Coyote Valley to be acknowledged as an area of statewide significance in local planning documents developed or updated on or after January 1, 2020, affecting land use within Coyote Valley.
 - 7) Requires a state entity to consult with the Authority before expending any state moneys collected on or after January 1, 2020, from fines or penalties derived from natural resource related infractions within Coyote Valley.
 - 8) Provides the following definitions:
 - a) “Coyote Valley” means all areas west of the ridgeline of the Diablo Range, south of Tulare Hill, east of the ridgeline of the Santa Cruz Mountains, and north of Burnett Avenue;
 - b) “Natural lands” means lands consisting of forests, grasslands, deserts, freshwater and riparian systems, wetlands, coastal and estuarine areas, watersheds, wildlands, or wildlife habitat, or lands used for recreational purposes, such as parks, urban and community forests, trails, greenbelts, and other similar open-space land. For purposes of this definition, “parks” includes, but is not limited to, areas that provide public green space;
 - c) “Program” means the Coyote Valley Conservation Program (CVCP);
 - d) “Program lands” means interests in real property acquired, managed, or subject to a project under this bill; and,
 - e) “Working lands” means lands used for farming, grazing, or the production of forest products.
 - 9) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.
 - 10) Makes a number of findings and declarations pertaining to the purposes of this bill.

EXISTING LAW:

- 1) Declares the policy of the state that:

- a) The protection and management of natural and working lands is an important strategy in meeting the state's greenhouse gas emissions reduction goals;
 - b) The protection and management of those lands can result in the removal of carbon from the atmosphere and the sequestration of carbon in, above, and below the ground; and,
 - c) The protection and management of natural and working lands provides multiple public benefits, including, but not limited to, assisting with adaptation to the impacts of climate change, improving water quality and quantity, flood protection, ensuring healthy fish and wildlife populations, and providing recreational and economic benefits.
- 2) Creates the Authority, declaring that, in Santa Clara County, open-space preservation and creation of a greenbelt are immediate high priorities needed to counter the continuing and serious conversion of these lands to urban uses, to preserve the quality of life in the county, and to encourage agricultural activities.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Background.** The Legislature created the Santa Clara County Open Space Authority via SB 2077 (Mello), Chapter 822, Statutes of 1992, to acquire, preserve, and maintain open space lands in Santa Clara County. The Authority is an independent special district governed by a board of directors with seven members who are elected to serve four-year terms. The Authority's jurisdiction includes the cities of San José, Santa Clara, Milpitas, Campbell, Morgan Hill, and parts of unincorporated Santa Clara County. The name was changed to the Santa Clara Valley Open Space Authority via SB 422 (Monning), Chapter 99, Statutes of 2015.

In 1994, voters within the Authority's jurisdiction approved a \$12 per-parcel annual benefit assessment, which provides an estimated \$4.2 million per year to fund and oversee the maintenance of nature preserves, capital projects, and land acquisitions. Voters in 2014 approved Measure Q, which authorized for 15 years a \$24 per-year parcel tax. This generates approximately \$8 million per year to fund protection of wildlife, water, working lands and other open space; increase public access; and, create new urban open spaces and environmental education programs.

To date, the Authority has protected more than 22,000 acres of the Santa Clara Valley's highest priority open space lands through purchase of fee title, conservation easements, and partnerships with other conservation agencies and non-profits. The Authority has also allocated nearly \$10 million of funding to city and county partnership projects via its 20% Funding Urban Open Space Program. Since the inaugural launch of the Measure Q Urban Open Space Grants Program in August 2017, the Authority has awarded over \$1.9 million in Urban Open Space grants to more than 17 diverse projects throughout the Authority's jurisdiction.

- 2) **Coyote Valley and Measure T.** According to the Authority, "Coyote Valley plays a critical role in the health and sustainability of our entire region, especially in the face of climate change. Strategic conservation investments in Coyote Valley can provide many valuable

benefits to our urban communities by using nature as infrastructure to enhance or even replace traditional urban infrastructure like water treatment and flood prevention. Conservation and restoration in Coyote Valley can help to reduce greenhouse gases, store carbon, and buffer the effects of extreme climate events...Coyote Valley offers an unparalleled opportunity to provide cost-effective, efficient nature-based resilience to climate change, while also providing a number of other ecological, economic, and quality of life benefits...The Authority is working with the City of San José, the Santa Clara Valley Water District, and a number of other public agencies and nonprofit partners to better quantify the benefits of protecting Coyote Valley and advocate for our shared future.

“In November, San José voters approved Measure T, a local infrastructure bond measure that authorizes \$650 million for emergency and disaster response and infrastructure. The measure funds traditional built infrastructure projects, including emergency facilities and bridge repairs, along with funding for natural land protection and restoration projects to reduce risk of downstream flooding and degradation of water quality. This bond measure presents a once-in-a-lifetime opportunity to help preserve Coyote Valley for its natural infrastructure benefits to the community.”

Measure T was placed on the ballot by the City of San José, and authorized the use of bond funds for “preventing flooding and water quality contamination, including acquisition of open space in Coyote Valley for these purposes,” along with a number of additional priorities. The City’s spending plan for Measure T bond proceeds identified \$50 million for environmental protection projects that involve “water supply, flood control, open space and environmental protection of lands such as Coyote Valley.”

The City held a study session on Coyote Valley on January 22nd of this year to “hear from environmental leaders and Coyote Valley landowners, review the General Plan with respect to target properties, understand the economic effects of taking jobs lands and converting them to flood protection open space, and discuss the City’s proper role vis-à-vis flood protection.” According to the City’s Memorandum for the study session, “Land use planning in Coyote Valley has been an important issue for over half a century. As development plans evolved since the 1960s, especially regarding the role of residential development, two elements have been consistent. For 35 years (since 1984), North Coyote Valley has been designated in city land use plans for campus/industrial uses. Also, South Coyote Valley has been designated as a permanent greenbelt buffer between San José and Morgan Hill.”

The City’s “Envision San José 2040 General Plan” presented at this study session designated the North Coyote Valley as an Employment Lands Growth Area (1,700 acres), the Mid-Coyote Valley as an Urban Reserve with no planned development through 2040 (2,000 acres), and the South Coyote Valley as a permanent non-urban greenbelt buffer between San José and Morgan Hill (3,600 acres). Of these areas, all of the North Coyote Valley, about 16% of the Mid-Coyote Valley, and about 20% of the South Coyote Valley are annexed into San José. The remainder of the land is under Santa Clara County’s jurisdiction.

According to a January 22 article in The Mercury News, “...(Coyote Valley) offers (San José) a valuable economic opportunity to create jobs. The city’s own land use plans say the valley could support more than 30,000 new jobs. Unlike many cities in Silicon Valley, San José has far more homes than jobs, and the city has been feverishly trying to attract companies to the nation’s 10th largest city... While about 15 percent of the land in San José is

zoned for employment, the figure is nearly 30 percent in nearby cities like Santa Clara and Mountain View. Employment lands generate significant money for the city, Chris Burton, the deputy director of San José's Office of Economic Development, told the council, while residential lands do not...Greg Matter, a managing director at the real estate development company Jones Lang Lasalle, and Todd Berryhill, a managing director at Scannell Properties, another real estate development company, told the council Coyote Valley offers an opportunity for San José to attract developers and dollars currently gravitating toward the East Bay."

- 3) **Author's Statement.** According to the author, "Coyote Valley provides many natural infrastructure, climate and wildlife habit benefits, yet the area is under constant threat of conversion from development projects. The City of San José's General Plans have designated Coyote Valley, in particular the northern end to be reserved and zoned for industrial campuses. The need to protect Coyote Valley from development pressures is gaining more recognition by the state but no program exists that focuses local and state efforts to preserve and restore Coyote Valley. California has created programs designed to preserve and restore certain resources of the state, such as the Santa Ana River and Lower American River, and recognized these resources as being of statewide significance. Coyote Valley needs to be recognized as a resource of statewide significance and codify a program to protect and restore Coyote Valley."
- 4) **Bill Summary.** This bill allows the Authority to establish and administer the Coyote Valley Conservation Program to address the resource and recreational goals of the Coyote Valley. The Authority may collaborate with state, regional, and local partners to help achieve the goals of the program as specified in the bill. The bill specifies that the Authority, in carrying out the purposes of the bill and without limiting the express or implied powers of the Authority as provided in its governing statutes, shall have and may exercise all necessary rights and powers, expressed or implied, to achieve the goals of this bill. The bill allows, without limitation, the Authority to do all of the following:
 - a) Acquire and dispose of interests and options in real property;
 - b) Undertake, maintain, or fund projects to implement site improvements, upgrade deteriorating facilities, or construct new facilities for outdoor recreation, public access, nature appreciation, and interpretation; historic and cultural preservation; protection, restoration, or enhancement of natural resources and habitat; or, continuation or expansion of agricultural activities;
 - c) Provide technical assistance to landowners on practices to enhance the carbon sequestration or climate resilience benefits of natural and working lands;
 - d) Enhance wildlife connectivity across Highway 101, Monterey Road and other impediments to the movement of wildlife in the Coyote Valley through implementation of wildlife friendly culverts and overpasses, removal of fencing, and placement of wildlife crossing signage, or other means; and,
 - e) Provide for the management of program lands.

This bill requires a proponent or party to a proposed development project converting natural lands or working lands within Coyote Valley for a nonagricultural purpose to provide notice to the Authority of the proposed project. The Authority may provide analysis of the environmental values and potential impacts of the proposed project. The bill also requires Coyote Valley to be acknowledged as an area of statewide significance in local planning documents developed or updated on or after January 1, 2020, affecting land use within Coyote Valley. The bill also requires a state entity to consult with the Authority before expending any state moneys collected on or after January 1, 2020, from fines or penalties derived from natural resource related infractions within Coyote Valley.

This bill is sponsored by the Authority.

- 5) **Committee Amendment.** This bill contains language stating that the Authority may conduct a number of activities in administering the Coyote Valley Conservation Program “without limitation.” The Authority has indicated that the intent of this bill is not to grant the Authority any new powers, but to remain within the confines of existing law and its limitations on the Authority’s powers (such as its powers to acquire land, including the exercise of eminent domain, and so forth). In order to maintain consistency with the stated intent of this bill, the Committee may wish to strike “Without limitation” from page 4, line 29 of this bill.

- 6) **Arguments in Support.** The Santa Clara Valley Open Space Authority, sponsor of this bill, writes, “Coyote Valley has long been under the threat of development. Among many other detriments to the existing natural infrastructure that development in Coyote Valley would bring, building in the floodplain would displace floodwaters, sending more water downstream into Coyote Creek. Floods along this major San José waterway, such as the one that devastated many San José neighborhoods in February 2017, would become much worse if Coyote Valley is developed. Given an uncertain climate future, with the associated water supply, flooding, and other potential climate-dependent issues, protection of the natural infrastructure in Coyote Valley is all the more critical. The need to protect Coyote Valley from development pressures is gaining more recognition by the state and local governments. However, Coyote Valley is not recognized as a resource of statewide significance nor has the state selected a state or local agency to lead efforts to protect and restore Coyote Valley.

“AB 948 would remedy this situation by defining the boundaries of Coyote Valley, recognizing Coyote Valley as a resource of statewide significance, and authorizing the Authority to establish the CVCP so that the Authority can better leverage state, local and private funding for projects that preserve and restore Coyote Valley. AB 948 guides the Authority to develop and implement projects to acquire and permanently protect real property to keep lands in agriculture and open space; enriching outdoor recreation opportunities; protect, restore, and enhance natural resources; and provide technical assistance to landowners to improve carbon sequestration and resilience benefits.”

- 7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Santa Clara Valley Open Space Authority [SPONSOR]
Citizens for Los Angeles Wildlife
Committee for Green Foothills
County of Santa Clara
Defenders of Wildlife
Greenbelt Alliance
Madrone Audubon Society, Sonoma County
National Wildlife Federation
The Nature Conservancy
Pathways for Wildlife
Paula Lane Action Network, Sonoma County, American Badger Conservation Program
Peninsula Open Space Trust
Santa Clara Valley Audubon Society
Santa Clara Valley Habitat Agency
Santa Clara Valley Open Space Authority
Sierra Club California
Wildlife Corridor Working Group
One individual

Opposition

None on file

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