

## Senate Bill No. 449

### CHAPTER 170

An act to amend Sections 4, 5, 31, and 33 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), and to repeal Section 5 of Chapter 29 of the Statutes of 1987, relating to the Santa Clara Valley Water District.

[Approved by Governor August 8, 2001. Filed with  
Secretary of State August 9, 2001.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 449, Sher. Santa Clara Valley Water District.

(1) The Santa Clara Valley Water District Act specifies the powers and the purposes of the Santa Clara Valley Water District.

This bill would provide that the purposes of the act are to authorize the district to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County. The bill would authorize the district to take action to carry out specified purposes of the district. The bill would provide that those purposes include the enhancement, protection, and restoration of streams, riparian corridors, and natural resources and make additional modifications to the powers of the district.

(2) The act authorizes the Board of Directors of the Santa Clara Valley Water District to reconvey real property to the former owner by whom the property was conveyed, or from whom the property was condemned by the district, for a price not less than that paid by the district for the property.

This bill would instead authorize the board to reconvey that real property to the former owner for fair market value, as determined by a qualified real estate appraiser, or for less than fair market value if the district finds that a public purpose exists justifying that reconveyance.

(3) The act authorizes the board, by a  $\frac{5}{7}$  vote, to take specified action with regard to the transfer of property owned by the district.

This bill would authorize the board to take these actions by a majority vote.

(4) The act generally provides that the board is governed in the sale, lease, or other disposition of real property by the requirements of law governing that action by counties, and authorizes the board to prescribe an alternative procedure for the leasing of real property owned by the district if the rental, as appraised, does not exceed \$2,500 per month.



This bill would delete the requirement that the rental, as appraised, not exceed \$2,500 per month.

(5) Under the act, the board of directors of the district consists of 7 members. A member is required to execute and file an official bond in the sum of \$1,000 within 10 days after receiving his or her certificate of election or notice of appointment.

This bill would delete this bonding requirement.

(6) Existing law provides for the consolidation of the Gavilan Water Conservation District with the Santa Clara Valley Water District. Under existing law, the area of the consolidated water conservation district is a zone of the district. Existing law requires a public hearing to be held within each zone of the district lying outside of the zone in which the district board's chambers are located, in each year that the district prepares a written report that recommends that a groundwater charge be levied in the zone.

This bill would repeal the latter provision.

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

SECTION 1. Section 4 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 4. The objects and purposes of this act are to authorize the district to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County. The district may take action to carry out all of the following purposes: (a) to protect Santa Clara County from flood and storm waters of the district, including tidal flood waters and the flood and storm waters of streams that have their sources outside the district, but flow into the district; (b) to protect from those flood or storm waters the public highways, life and property in the district, and the watercourses and watersheds of streams flowing within the district; (c) to provide for the conservation and management of flood, storm, reclaimed, or recycled waters, or other waters from any sources within or outside the watershed in which the district is located for beneficial and useful purposes, including spreading, storing, retaining, and causing the waters to percolate into the soil within the district; (d) to protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters; (e) to increase, and prevent the waste or diminution of, the water supply in the district; (f) to obtain, retain, reclaim, protect, and recycle drainage, storm, flood waters or treated wastewaters, or other waters from any sources, within or outside the watershed in which the district is located for any beneficial uses within the district; (g) and to enhance, protect, and restore streams, riparian corridors, and natural resources in



connection with carrying out the objects and purposes set forth in this section.

SEC. 1.5. Section 5 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read.

Sec. 5. The district is hereby declared to be a body corporate and politic and, in addition to other powers granted by this act, may take action to carry out all of the following purposes:

1. To have perpetual succession.
2. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.
3. To adopt a seal and alter it at pleasure.
4. To acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and to hold, use, enjoy, sell, let, and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges, and to construct, maintain, alter and operate any and all works or improvements, within or outside the district, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to complete, extend, add to, alter, remove, repair or otherwise improve any works, or improvements, or property acquired by it as authorized by this act.
5. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or of any zone or zones affected; to conserve reclaim, recycle, distribute, store, and manage water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside the district, water for any purpose useful to the district; and to do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including but not limited to, the acquisition, storage and distribution of water for irrigation, domestic, fire protection, municipal, commercial, industrial, environmental, and all other beneficial uses; to distribute, sell, or otherwise dispose of, outside the district, any waters not needed for beneficial uses within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district in behalf of the landowners therein, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or outside the district, used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions and proceedings now



or hereafter begun; to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of water used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from the district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface for subsurface water used or useful in the district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the described waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that the district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights that do not affect the interests of the district.

6. To control the flood and storm waters of the district and the flood and storm waters of streams that have their sources outside of the district, but which streams and the floodwaters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes of the district by spreading, storing, retaining and causing to percolate into the soil within or without the district, or to save or conserve in any manner all or any of those waters and protect from damage from those flood or storm waters the watercourses, watersheds, public highways, life and property in the district, and the watercourses outside of the district of streams flowing into the district.

7. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of the works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to that end, and for those purposes and uses, to acquire and to hold in the name of the state, the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to cooperate with, act in conjunction with, enter into and to do any acts necessary for



the proper performance of any agreement with the State of California, or any of its engineers, officers, boards, commissions, departments, or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments, or agencies or with any state, city and county, city, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the ownership, joint acquisition, leasing, disposition, use, management, construction, installation, extension, maintenance, repair, or operation of any rights, works, or other property of a kind which might lawfully be acquired or owned by the district or for the lawful performance of any power or purpose of the district provided for in this act including, but not limited to, the granting of the right to the use of any water or the right to store that water in any reservoir of the district or to carrying that water through any tunnel, canal, ditch or conduit of the district or for the delivery, sale, or exchange of any water right, water supply or water pumped, stored, appropriated or otherwise acquired or secured for the use of the district, or for controlling drainage waters, or flood or storm waters of streams in or running into the district, or for the protection of life or property therein, or for the purpose of conserving any waters for the beneficial use within the district, or in any other works, uses, or purposes provided for in this act; and to adopt and carry out any definite plan or system for accomplishing, facilitating or financing all work which may lawfully be accomplished by the district and to enforce that plan or system by resolution or ordinance.

8. To carry on technical and other necessary investigations, make measurements, collect data, make analyses, studies, and inspections pertaining to water supply, water rights, control of flood and storm waters, and use of water both within and outside the district relating to watercourses or streams flowing in or into the district. For such purposes, the district shall have the right of access through its authorized representatives to all properties within the district and elsewhere relating to watercourses and streams flowing in or into said district. The district, through its authorized representatives, may enter upon such lands and make examinations, surveys, and maps thereof.

9. To prescribe, revise and collect fees and charges for facilities furnished or to be furnished to any new building, improvement or structure by the use of any flood control or storm drainage system constructed or to be constructed in a zone of the district, and whenever a drainage or flood control problem is referred to the district by the County of Santa Clara, or any incorporated city therein, to require the installation of drainage or flood control improvements necessary and/or convenient for needs of the zone, including but not limited to, residential, subdivision, commercial and industrial drainage and flood



control needs, those county and cities being hereby authorized to refer all drainage and flood control problems, arising under the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) or otherwise, to the district for solution. Revenues derived under this section shall be used for the acquisition, construction, reconstruction, maintenance and operation of the flood control or storm drainage facilities of the that zone, to reduce the principal or interest of any bonded indebtedness thereof, or to replace funds expended on behalf of that zone derived from the fund created pursuant to subdivision 1 of Section 13.

10. To incur indebtedness, and to issue bonds in accordance with this act.

11. To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner hereinafter provided.

12. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in the district or any of the officers thereof, by this act.

13. To have the power and right to disseminate information concerning the rights, properties, activities, plans and proposals of the district; provided, however, that expenditures during any fiscal year for those purposes shall not exceed one-half cent (\$.005) for each one hundred dollars (\$100) of assessed valuation of such district.

14. To pay to any city, public agency, district, or educational institution recognized under Chapter 3 (commencing with Section 94301) of Part 59 of the Education Code, a portion of the cost of water imported by that city, public agency, district, or educational institution into, for use within, and of benefit to the Santa Clara Valley Water District.

15. To establish designated floodways in accordance with the Cobey-Alquist Flood Plain Management Act (Chapter 4 (commencing with Section 8400) of Part 2 of Division 5 of the Water Code).

16. To acquire, construct, maintain, operate and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the district.

17. To acquire, construct, maintain, operate and install, lease, and control facilities for the generation, transmission, distribution, sale, exchange, and lease of electric power.

18. To require the sealing of abandoned or unused wells according to standards adopted by the board by ordinance and designed to protect the groundwater resources of the district from contamination. Upon and following the effective date of the ordinance, the County of Santa Clara or any incorporated city therein shall require all persons applying for any



land development permit or approval to show the existence and location of any water well upon a map of the property the subject of the application. When a well is shown, the map shall be referred to the district immediately upon receipt for review and investigation. If upon review and investigation the district determines that the well or wells are to be sealed by the applicant pursuant to the ordinance, the determination shall be transmitted promptly to the applicant by the district as a requirement in writing.

SEC. 2. Section 31 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 31. The legal title to all property, except shares of stock in mutual water companies or corporations, as provided in Section 17 of Article XVI of the California Constitution, acquired under this act shall immediately and by operation of law vest in the district, and shall be held by the district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board may hold, use, acquire, manage, occupy, and possess the property, as herein provided; and the board may determine, by resolution duly entered in their minutes that any real property, or interest therein, held by the district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease, or otherwise dispose of the property pursuant to this section.

Real property that, in the unanimous judgment of the board, has no access to a public road, or that consists of an easement for ingress and egress to property that, by the terms of the easement, will terminate when ingress and egress is supplied to the property by a public road, may be sold, leased, or conveyed by the board on terms prescribed by it.

The board may reconvey real property to the former owner by whom the property was conveyed, or from whom the property was condemned by the district, or the owner's successor in interest for fair market value. Fair market value shall be determined by a qualified real estate appraiser. However, the district may reconvey real property to the former owner or his or her successor in interest for less than fair market value if the district finds that a public purpose exists justifying that reconveyance for less than fair market value.

The board may by a majority vote exchange real property of equal value with any person, firm, or corporation for the purpose of removing defects in the title to real property owned by the district or where the real property to be exchanged is not required for district use and the property to be acquired is required for district use.

In all other cases, the board shall be governed in the sale, lease, or other disposition of real property by the requirements of law governing that action by counties; provided, however, that notice of the board's



intended action shall be as prescribed in Section 25363 of the Government Code.

The board may by resolution prescribe a procedure for the leasing of real property owned by the district alternative to the requirements of law governing counties.

The board may by a majority vote sell, lease, or otherwise transfer to the state, the County of Santa Clara, or to any city, school district, or other special district within the Santa Clara Valley Water District, or exchange with the public entities, any real or personal property or interest therein belonging to the district upon the terms and conditions that are agreed upon.

The board shall establish regulations for the trade in, survey, sale, or other disposition of personal property held by the district and no longer necessary to be retained for the uses and purposes thereof; provided, however, that any sale of personal property having a sale value in excess of that value stated from time to time by Section 1041.6 of Article 2 of Subchapter 3 of Chapter 2 of Division 2 of the California Code of Regulations as a definition of “fixed assets,” or any lower value as may be determined by the board, shall be made upon public bid preceded by notice of the board’s intended action given as prescribed in Section 25363 of the Government Code.

SEC. 3. Section 33 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 33. Each person elected or appointed to the office of director shall, within 10 days after receiving his or her certificate of election, or notice of appointment, qualify as such by taking and subscribing to an official oath. The director shall file his or her official oath with the clerk of the board.

The board may authorize each director to receive compensation not exceeding one hundred dollars (\$100) per day for each day’s attendance at meetings of the board, or committees thereof, or for each day’s service rendered as a director by request of the board. No director may receive total compensation, other than for actual and necessary expenses, in excess of six hundred dollars (\$600) per month.

Employees appointed by the board under this act, when required by the board of the district, shall execute bonds conditioned, executed, approved, filed, and recorded in the general manner and form provided by law for officers, other than supervisors, of the county, before entering upon the duties of their respective employments.

SEC. 4. Section 5 of Chapter 29 of the Statutes of 1987 is repealed.

