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THIRD READING

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Bill No: AB 1469  
Author: Kalra (D), et al.  
Amended: 7/10/23 in Senate  
Vote: 21

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SENATE GOVERNANCE & FIN. COMMITTEE: 8-0, 7/5/23  
AYES: Caballero, Seyarto, Blakespear, Dahle, Durazo, Glazer, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 5/8/23 - See last page for vote

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**SUBJECT:** Santa Clara Valley Water District

**SOURCE:** Santa Clara Valley Water District

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**DIGEST:** This bill allows the Santa Clara Valley Water District to assist unsheltered people living along streams, riparian corridors, or otherwise within the district's jurisdiction in consultation with a city or the County of Santa Clara.

**ANALYSIS:**

Existing law:

- 1) Creates the Santa Clara Valley Water District (SCVWD).
- 2) Allows SCVWD to do the following:
  - a) Protect Santa Clara County from floodwater and stormwater of the district;
  - b) Protect from that floodwater or stormwater the public highways, life, property in the district, and the watercourses and watersheds of streams flowing within the district;
  - c) Provide for the conservation and management of floodwater, stormwater, recycled water, or other water for beneficial and useful purposes;

- d) Protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters;
  - e) Increase, and prevent the waste or reduction of the district's water supply;
  - f) Obtain, retain, protect, and recycle drainage, stormwater, floodwater, or treated wastewater, or other water for beneficial uses;
  - g) Enhance, protect, and restore streams, riparian corridors, and natural resources; and,
  - h) Preserve open space in Santa Clara County and support the county park systems.
- 3) Requires a local agency that wants to dispose of property to follow specified procedures under the Surplus Land Act (SLA).
- 4) Defines "surplus land" as land owned by any local agency that is determined to be no longer necessary for the agency's use.
- 5) Provides that properties considered "for agency use" do not have to follow the procedures of the SLA.

This bill:

- 1) Allows SCVWD to take the following actions to assist unsheltered people living along streams, riparian corridors, or otherwise within the district's jurisdiction, to provide solutions or improve outcomes for the unsheltered individuals, in consultation with a city or Santa Clara County:
- a) Collect waste or biowaste;
  - b) Contract with a city, Santa Clara County, or the state, to provide outreach, counseling, transitional or long-term housing, public safety, or other services for unsheltered people;
  - c) Provide, develop, sell, or lease land for the purposes of constructing temporary or permanent structures for transitional or long-term housing or other services for unsheltered people;
  - d) Contract with nongovernmental entities to provide outreach, counseling, transitional or long-term housing for unsheltered people. Any contract

between the district and a nongovernmental entity must be in coordination with a city or Santa Clara County; and

- e) Any housing developed must be consistent with Housing First core components.
- 2) Provides that SCVWD's use of land for these for the above purposes constitutes "agency's use" under the Surplus Land Act. This provision is only operative if SB 747 (Caballero, 2023) is enacted and amends Section 54221 of the Government Code.
- 3) Requires SCVWD to provide a report to the appropriate committees of the Legislature on or before July 1, 2029, and a subsequent report on or before July 1, 2034. This report must include:
- a) A narrative description of how the authorizations in this section have been used to assist unsheltered people;
  - b) The number of people housed;
  - c) The number of housing projects developed and a description of each project;
  - d) A description of any services provided to unsheltered people;
  - e) Any written or oral public comments received at a duly noticed public hearing convened by the district not more than six months prior to the submittal of each report.
- 4) Makes various technical changes.

## **Background**

The Santa Clara Valley Water District (SCVWD) is the primary water resource agency for Santa Clara County. First formed as the Santa Clara Valley Water Conservation District in 1929, it now acts as the County's water wholesaler and the steward for its streams, creeks, underground aquifers, and district-built reservoirs. The District owns and manages 10 local surface reservoirs and associated creeks and recharge facilities, manages the County's groundwater basins and three water treatment plants, imports water from the Central Valley Project and the State Water Project, and delivers recycled water to parts of the County. SCVWD is also responsible for flood protection within the County. Its stewardship responsibilities include creek restoration and wildlife habitat projects, pollution prevention efforts,

and a commitment to natural flood protection. SCVWD generates revenue from various sources, including water rates, property taxes, and parcel taxes.

## Comments

- 1) *Purpose of the bill.* According to the author, “In *Martin v. City of Boise*, the U.S. Court of Appeals for the Ninth Circuit held that governments cannot criminalize sleeping outdoors on public property if there is no real option for sleeping indoors. Amid an unprecedented need for transitional and long-term housing in Santa Clara County, cities and the County often do not have shelter space to offer. Valley Water has very limited authority to expend its revenue or use other resources outside of purposes listed in the District Act, leaving some human health and safety risks on their lands unaddressed. AB 1469 will provide Valley Water with the flexibility needed to direct resources to assist unsheltered people on their lands and humanely address a crisis that can no longer be ignored.”
- 2) *Mission creep?* SCVWD is charged with providing water service, providing flood protection, and operating water infrastructure, as opposed to being a homelessness service provider. While helping provide services to individuals experiencing homelessness may not be part of SCVWD’s core competency, it is often forced into handling homelessness issues whether it wants to or not. Through its solid waste removal efforts, Measure S encampment funding, and MOA with the City of San Jose, SCVWD has taken strides within its existing authority to help address the impacts of homelessness. This bill both clarifies the existing powers SCVWD has used to address homelessness, and gives it new ones. For example, SCVWD already has various powers to protect and preserve its water supply. This bill explicitly authorizes SCVWD to collect waste and biowaste. SCVWD and San Jose have an MOU to coordinate encampment cleanup efforts, but, without this bill, SCVWD does not have the explicit power to provide all types of homelessness services. Does this bill provide SCVWD with too much additional power? Or, does it allow for SCVWD to step in where cities and counties lack capacity to do so on their own?
- 3) *A complication.* If a local agency retains land “for agency use,” it does not have to declare it “surplus” land or “exempt surplus land” and follow the procedures of the SLA. Since the SLA’s definition of agency use does not explicitly include land that an agency like SCVWD uses to provide housing for unsheltered individuals, these leasing or selling land for these purposes may end up subject to the SLA. This bill attempts to clarify how the SLA should treat

these projects by declaring SCVWD's use of land for these purposes meets the definition of agency use. Should SCVWD be able to consider selling or leasing of land for homelessness purposes to be agency use when other local agencies do not have a similar exemption?

### **Related/Prior Legislation**

SB 34 (Umberg, 2023) creates a process for the Department of Housing and Community Development (HCD) to determine whether land disposals in Orange County violate the SLA. The bill is currently pending in the Assembly Appropriations Committee.

SB 229 (Umberg, 2023) requires a local agency to hold an open and public meeting if HCD notifies the local agency that its disposal of a parcel violates the SLA. The bill is currently pending in the Assembly Appropriations Committee.

SB 693 (Seyarto, 2023) exempts certain parcels in the City of Murrieta from the SLA. The bill is currently pending in the Senate Governance and Finance Committee.

SB 747 (Caballero, 2023) makes numerous changes to the SLA, including expanding the definition of agency use, and exempt surplus land. The bill is currently pending in the Assembly Appropriations Committee.

AB 129 (Committee on Budget, Chapter 40, Statutes of 2023) included, among its many provisions, an exemption from the SLA for land acquired by a local agency under an adopted sectional area plan.

AB 457 (Joe Patterson, 2023) creates an exemption from the SLA for parcels abutting a state highway right-of-way that a local agency identified in its circulation element or capital improvement plan for future roadway development. The bill is currently pending on the Senate Floor.

AB 480 (Ting, 2023) changes the penalty provisions of the SLA and makes procedural changes to noticing provisions that apply to "surplus land" and "exempt surplus land" disposed of by local agencies subject to the SLA. The bill is currently pending in the Senate Appropriations Committee.

AB 837 (Alvarez, 2023) creates an exemption from the SLA for land acquired by a local agency under an adopted sectional area plan. The bill is currently pending in the Senate Governance and Finance Committee.

AB 939 (Pellerin, 2023) makes various changes to the Santa Clara Valley Water District Act, including how its board members receive compensation, and how SCVWD finances its projects. The bill is awaiting concurrence on the Assembly Floor.

AB 983 (Cervantes, 2023) expands the definition of exempt surplus land to include land designated in an adopted downtown revitalization plan not to exceed 1.1 square miles and includes residential, commercial, office, civic, and hospitality uses. The bill is currently pending in the Assembly Local Government Committee.

AB 1734 (Jones-Sawyer, 2023) exempts certain housing and homelessness projects from the SLA in local agencies that have declared a local homelessness emergency and meet other requirements. The bill is currently pending in the Senate Appropriations Committee.

SB 519 (Beall, 2017) would have authorized SCVWD to engage in acts the Board of Directors deems appropriate and beneficial to reduce impacts from camping, construction, and the discharge or disposal of waste in and around waterways within its jurisdiction. The measure was later amended to cover a different topic.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

**SUPPORT:** (Verified 8/22/23)

Santa Clara Valley Water District (source)  
Asian Americans for Community Involvement  
Association of California Water Agencies  
California Municipal Utilities Association  
California Special Districts Association  
City of Cupertino  
City of Palo Alto  
City of San Jose  
City of Santa Clara  
Compassion Center  
County of Santa Clara  
Destination: Home  
Gilroy City Council Member Zach Hilton  
Hispanic Chamber of Commerce Silicon Valley  
Homefirst Services of Santa Clara County  
Midpeninsula Regional Open Space District  
Pitstop Outreach

San Jose/Silicon Valley Branch of the NAACP  
Sustainable Silicon Valley

**OPPOSITION:** (Verified 8/22/23)

None received

**ASSEMBLY FLOOR:** 72-0, 5/8/23

**AYES:** Addis, Aguiar-Curry, Alanis, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Low, Lowenthal, Maienschein, Mathis, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Weber, Wicks, Wilson, Wood, Zbur, Rendon

**NO VOTE RECORDED:** Arambula, Juan Carrillo, Cervantes, Hart, Lee, McCarty, Ortega, Ward

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119  
8/23/23 14:26:57

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