

AMENDED IN ASSEMBLY MARCH 16, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1469

Introduced by Assembly Member Kalra

February 17, 2023

An act to amend Section 4 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.

LEGISLATIVE COUNSEL’S DIGEST

AB 1469, as amended, Kalra. Santa Clara Valley Water District.

The Santa Clara Valley Water District Act creates the Santa Clara Valley Water District, and authorizes the district to provide for the conservation and management of flood, storm, and recycled waters, and other waters, for beneficial uses and to enhance natural resources in connection with carrying out the purposes of the district.

This bill would additionally authorize the district to assist unsheltered people living along streams, in riparian corridors, or otherwise within the district’s jurisdiction, in consultation with ~~cities~~ and *cities*, the County of Santa Clara, *and the state*, as appropriate, to provide solutions or improve outcomes for the unsheltered individuals.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

1 (a) *The number of unhoused people in the County of Santa Clara*
2 *has increased by 36 percent in the last five years, rising from 7,394*
3 *in 2017 to 10,028 in 2022, according to the Homeless*
4 *Point-in-Time Count and Survey. In 2022, 77 percent of the*
5 *unhoused population in the county were unsheltered, meaning they*
6 *are living in vehicles, in abandoned buildings, on public lands, or*
7 *on the street.*

8 (b) *Thousands of the unsheltered people in the County of Santa*
9 *Clara live along creeks and streams, in the riparian corridors,*
10 *where 294 miles of creekside lands are owned by the Santa Clara*
11 *Valley Water District, an independent special district responsible*
12 *for regional water supply, flood risk reduction, and environmental*
13 *stewardship of waterways in the county.*

14 (c) *Encampments of unsheltered people along waterways are*
15 *both a human and an environmental tragedy, causing deaths and*
16 *negative health outcomes for unsheltered individuals, increased*
17 *community risks from fires, and flooding due to blocked drainages*
18 *and the excavation of banks and levees, as well as the degradation*
19 *of water quality from litter and human waste.*

20 (d) *Nutrient loading of streams from human waste facilitates*
21 *algal blooms that degrade natural and constructed habitats for*
22 *aquatic species, including federally threatened fish species such*
23 *as steelhead trout.*

24 (e) *The safe operation of water supply and flood risk reduction*
25 *infrastructure in the County of Santa Clara requires vehicle access*
26 *along pathways favored by encampments and requires the rapid*
27 *release of water from upstream reservoirs, not only during storms,*
28 *but often weeks before storms arrive, which may unintentionally*
29 *flood encampments, endangering unsheltered people.*

30 (f) *Construction of flood risk reduction and water supply*
31 *infrastructure, as well as environmental restoration and*
32 *enhancement, requires closing certain areas to the public to protect*
33 *life, safety, and the environment.*

34 (g) *As an independent special district, the Santa Clara Valley*
35 *Water District's actions to address the human and operational*
36 *challenges posed by encampments and to reduce environmental*
37 *impacts are limited by the agency's authorities granted by the*
38 *Santa Clara Valley Water District Act, as well as by the California*
39 *Constitution's restrictions on the use of taxes and fees collected*
40 *for water supply and flood protection for other purposes.*

1 (h) *The Santa Clara Valley Water District Board has long sought*
2 *to increase resources that could be available to assist unsheltered*
3 *people living along waterways and on other district properties to*
4 *provide solutions, housing, or improved outcomes for the*
5 *unsheltered individuals.*

6 (i) *In 2020, voters the in County of Santa Clara approved*
7 *Measure S, a special tax that provides \$500,000 annually to the*
8 *water district for cost-share agreements with local agencies for*
9 *services related to cleanups of encampment litter and debris on*
10 *waterways, in keeping with the district’s limited mission. Those*
11 *funds are limited and eroded by inflation, and the growing needs*
12 *far exceed both the purpose and amount of funding provided by*
13 *the special tax.*

14 (j) *In the case of Martin v. City of Boise, 920 F.3d 584, 616 (9th*
15 *Cir. 2019), the United States Court of Appeals for the Ninth Circuit*
16 *held that “as long as there is no option of sleeping indoors, the*
17 *government cannot criminalize indigent, homeless people for*
18 *sleeping outdoors, on public property, on the false premise they*
19 *had a choice in the matter.” The United States Supreme Court*
20 *declined to review the Ninth Circuit’s decision, leaving it in effect*
21 *in the western states covered by the Ninth Circuit, including*
22 *California. Martin v. City of Boise has been interpreted to mean*
23 *a de facto requirement to offer shelter before unsheltered people*
24 *may be relocated from public lands, and failure to do so may result*
25 *in the issuance of a temporary restraining order.*

26 (k) *Considering the Santa Clara Valley Water District’s*
27 *uncommon flood risk reduction responsibilities that are separate*
28 *from county government, accounting for its location in one of the*
29 *largest urban areas in the state, noting the large numbers of*
30 *unsheltered people living on the public lands in riparian corridors,*
31 *and citing evolving case law requiring the offer of shelter to*
32 *relocate unsheltered people living on public land, there is a*
33 *compelling need to expand the purposes of the Santa Clara Valley*
34 *Water District to better assist unsheltered people, to fulfill the*
35 *district’s existing mission of comprehensive water supply, flood*
36 *risk reduction, and environmental stewardship of streams, by*
37 *providing solutions, housing, and improved outcomes for*
38 *unsheltered people living on public lands and along waterways*
39 *within the County of Santa Clara.*

1 **SECTION 1.**

2 *SEC. 2.* Section 4 of the Santa Clara Valley Water District Act
3 (Chapter 1405 of the Statutes of 1951), as amended by Section 1
4 of Chapter 279 of the Statutes of 2006, is amended to read:

5 Sec. 4. (a) The purposes of this act are to authorize the district
6 to provide comprehensive water management for all beneficial
7 uses and flood protection risk within the County of Santa Clara.

8 (b) It is the intent of the Legislature that the district work
9 collaboratively with other appropriate entities in the County of
10 Santa Clara in carrying out the purposes of this act.

11 (c) The district may take action to do all of the following:

12 (1) Reduce the risks to the County of Santa Clara from
13 floodwater and stormwater of the district, including tidal floodwater
14 and the floodwater and stormwater of streams that have their
15 sources outside the district, but flow into the district.

16 (2) Reduce the risks of floodwater or stormwater to the public
17 highways, life, and property in the district, and the watercourses
18 and watersheds of streams flowing within the district.

19 (3) Provide flood risk reduction and provide for the conservation
20 and management of stormwater, recycled water, or other water
21 from any sources within or outside the watersheds in which the
22 district is located for beneficial and useful purposes, including
23 spreading, storing, retaining, and causing the waters to percolate
24 into the soil within the district.

25 (4) Protect, save, store, recycle, distribute, transfer, exchange,
26 manage, and conserve in any manner any of the waters.

27 (5) Increase and prevent the waste or diminution of the water
28 supply in the district.

29 (6) Obtain, retain, protect, and recycle drainage, stormwater,
30 floodwater, or treated wastewater, or other water from any sources,
31 within or outside the watersheds in which the district is located
32 for any beneficial uses within the district.

33 (7) Enhance, protect, and restore streams, riparian corridors,
34 and natural resources in connection with carrying out the purposes
35 set forth in this section.

36 (8) Assist unsheltered people living along streams, in riparian
37 corridors, or otherwise within the district's jurisdiction, in
38 consultation with ~~cities and cities~~, the County of Santa Clara, *and*
39 *the state*, as appropriate, to provide solutions or improve outcomes
40 for the unsheltered individuals.

- 1 (9) Preserve open space in the County of Santa Clara and support
- 2 the county park system in a manner that is consistent with carrying
- 3 out the powers granted by this section.

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