

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1125

Introduced by Assembly Member Achadjian

February 18, 2011

An act to amend Sections 25825.5 and 61105 of the Government Code, relating to wastewater collection and treatment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1125, as amended, Achadjian. Public health: ~~South County of San Luis Obispo County Sanitation and Los Osos Community Services District.~~

Existing law authorizes the County of San Luis Obispo to undertake any efforts necessary to construct and operate a community wastewater collection and treatment system to meet the wastewater collection and treatment needs within the Los Osos Community ~~Facilities Services District~~. Existing law prohibits the Los Osos Community ~~Facilities Services District~~, on and after January 1, 2007, from undertaking any efforts to design, construct, and operate a community wastewater collection and treatment system within, or for the benefit of, the district, until the County of San Luis Obispo adopts a resolution that would return the responsibility to the Los Osos Community ~~Facilities Services District~~, as specified.

This bill would authorize the County of San Luis Obispo, and the Los Osos Community ~~Facilities Services District~~, upon resuming the responsibilities of operating a community wastewater collection and treatment system, to develop a program that would ~~subsidize offset~~ the

assessments and charges adopted by the county for very low and ~~low income~~ *low-income* households with outside funds, including grants. The bill would prohibit the county and the district from including in an assessment or charge an amount to cover the costs in ~~subsidizing~~ *offsetting* the services.

This bill would make legislative findings and declarations as to the necessity of a special statute for *the* County of San Luis Obispo and the Los Osos Community ~~Facilities~~ *Services* District.

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. Section 25825.5 of the Government Code is
- 2 amended to read:
- 3 25825.5. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) There are ongoing discharges to the Los Osos Discharge
- 6 Prohibition Zone established in the Water Quality Control Plan
- 7 for the Central Coast Basin.
- 8 (2) The agency responsible for eliminating these discharges is
- 9 the Los Osos Community Services District, which is a relatively
- 10 new agency, formed in 1998.
- 11 (3) The Central Coast Regional Water Quality Control Board
- 12 has imposed substantial fines on the Los Osos Community Services
- 13 District for failing to make adequate progress toward eliminating
- 14 these discharges.
- 15 (4) The Los Osos Community Services District has a relatively
- 16 small staff that has no experience of successfully designing and
- 17 constructing facilities of the size and type needed to eliminate
- 18 these discharges.
- 19 (5) The County of San Luis Obispo has a larger staff that has
- 20 experience in successfully designing large public works projects.
- 21 (6) There is an urgent need to protect the public health and safety
- 22 by eliminating these discharges and the most feasible alternative
- 23 is best accomplished by a temporary realignment of certain
- 24 wastewater collection and treatment powers between the Los Osos
- 25 Community Services District and the County of San Luis Obispo.
- 26 (7) It is the intent of the Legislature in enacting this section and
- 27 amending Section 61105 to authorize the County of San Luis

1 Obispo to design, construct, and operate a wastewater collection
2 and treatment project that will eliminate these discharges,
3 particularly in the prohibition zone, to avoid a wasteful duplication
4 of effort and funds, and to temporarily prohibit the Los Osos
5 Community Services District from exercising those powers.

6 (b) As used in this section, the following definitions apply:

7 (1) “Board” means the Board of Supervisors of the County of
8 San Luis Obispo.

9 (2) “County” means the County of San Luis Obispo.

10 (3) “District” means the Los Osos Community Services District,
11 formed pursuant to the Community Services District Law, Division
12 3 (commencing with Section 61000) of Title 3, located in San Luis
13 Obispo County.

14 (4) “Prohibition zone” means that territory within the Baywood
15 Park-Los Osos area of the county that is subject to the wastewater
16 discharge prohibition imposed by the Central Coast Regional Water
17 Quality Control Board pursuant to Resolution 83-13.

18 (c) The county may undertake any efforts necessary to construct
19 and operate a community wastewater collection and treatment
20 system to meet the wastewater collection and treatment needs
21 within the district. These efforts may include programs and projects
22 for recharging aquifers, preventing saltwater intrusion, and
23 managing groundwater resources to the extent that they are related
24 to the construction and operation of the community wastewater
25 collection and treatment system. These efforts shall include any
26 services that the county deems necessary, including, but not be
27 limited to, any planning, design, engineering, financial analysis,
28 pursuit of grants to mitigate affordability issues, administrative
29 support, project management, and environmental review and
30 compliance services. The county shall not exercise any powers
31 authorized by this section outside the district.

32 (d) Nothing in this section shall affect the district’s power to do
33 any of the following:

34 (1) Operate wastewater collection and treatment facilities within
35 the district that the district was operating on January 1, 2006.

36 (2) Provide facilities and services, other than wastewater
37 collection and treatment.

38 (e) To finance the construction and operation of a wastewater
39 collection and treatment system, the county may levy benefit

1 assessments consistent with the requirements of Article XIII D of
2 the California Constitution, pursuant to any of the following:

3 (1) The Improvement Act of 1911 (Division 7 (commencing
4 with Section 5000) of the Streets and Highways Code).

5 (2) The Improvement Bond Act of 1915 (Division 10
6 (commencing with Section 8500) of the Streets and Highways
7 Code).

8 (3) The Municipal Improvement Act of 1913 (Division 12
9 (commencing with Section 10000) of the Streets and Highways
10 Code).

11 (f) The county may charge standby charges for sewer services,
12 consistent with the requirements of Article XIII D of the California
13 Constitution, pursuant to the Uniform Standby Charge Procedures
14 Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of
15 Division 2 of Title 5).

16 (g) The county may develop a program to ~~subsidize~~ *offset*
17 assessments or charges authorized pursuant to subdivisions (e) and
18 (f) for very low or low-income households with funding sources,
19 including, but not limited to, grants, *principal forgiveness, and*
20 *low-interest loans approved for the project by the state water board*
21 *or the United States Department of Agriculture*. The county shall
22 not include in an assessment or charge an amount to cover the
23 costs to the county in carrying out this subdivision.

24 (h) The county may impose and collect user fees and charges
25 and any other sources of revenue permitted by law sufficient to
26 cover the reasonable costs of any wastewater collection or treatment
27 services provided pursuant to this section.

28 (i) Promptly upon the adoption of a resolution by the board
29 requesting this action, the board of directors of the district shall
30 convey to the county any requested retained rights-of-way, licenses,
31 funds, and permits previously acquired by the district in connection
32 with construction projects for which the district awarded contracts
33 in 2005. The county shall use those fee interests, rights-of-way,
34 licenses, and funds for the purpose of furthering the construction
35 and operation of a wastewater collection and treatment system
36 pursuant to this section.

37 (j) After the approval of a benefit assessment, the board shall
38 complete a due diligence review before deciding to proceed with
39 the construction and operation of a wastewater collection and
40 treatment system. The board shall consider any relevant factors,

1 including, but not limited to, the prompt availability of reasonable
2 and sufficient financing, the status of enforcement actions, the
3 successful development of reasonable project technology and
4 location options, the availability of any necessary permits and
5 other approvals, and the absence of other significant impediments.
6 At the completion of this due diligence review, the board shall
7 adopt a resolution declaring its intention to proceed or not proceed
8 with the construction and operation of the wastewater collection
9 and treatment system.

10 (k) Collection of assessments may not commence until the
11 adoption of the resolution to proceed pursuant to subdivision (i).

12 (l) The county shall have no power or responsibility to construct
13 and operate a wastewater collection and treatment system pursuant
14 to this section and the district shall resume that power and
15 responsibility when any of the following occurs:

16 (1) If the board adopts a resolution not to hold a benefit
17 assessment election pursuant to subdivision (e).

18 (2) If there is a majority protest to a benefit assessment proposed
19 by the county, on the date of the resolution adopted by the board
20 determining that the majority protest exists.

21 (3) If there is not a majority protest, but the board adopts a
22 resolution, pursuant to subdivision (i), which declares that the
23 county will no longer exercise its powers pursuant to this section,
24 on the date specified in the board's resolution.

25 (4) If the county constructs and operates a wastewater collection
26 and treatment system pursuant to this section, not less than three
27 years after the operation of the system commences, the board and
28 the board of directors of the district shall mutually apply to the
29 Central Coast Regional Water Quality Control Board for a
30 modification of the waste discharge permit, requesting permission
31 to transfer of the responsibility to operate the wastewater collection
32 and treatment system from the county to the district. Consistent
33 with that modification, the board shall adopt a resolution that
34 specifies the date on which the county will no longer exercise its
35 powers pursuant to this section.

36 (m) When the power and responsibility to construct and operate
37 a wastewater collection and treatment system transfers from the
38 county to the district pursuant to subdivision (k), the county shall
39 do all of the following:

1 (1) Promptly convey to the district any remaining retained fee
2 interests in any real property, rights-of-way, licenses, other interests
3 in real property, funds, and other personal property that the county
4 previously acquired pursuant to subdivision (h).

5 (2) Promptly convey to the district the wastewater collection
6 and treatment system that the county constructed pursuant to this
7 section.

8 (3) Continue to collect any necessary assessments and use them
9 to repay any indebtedness incurred by the county to finance the
10 construction of the wastewater collection and treatment system
11 pursuant to this section.

12 (4) The county shall cease collecting any benefit assessments
13 after repayment of any indebtedness incurred by the county to
14 finance the construction of the wastewater collection and treatment
15 system.

16 (n) Nothing in this section shall be construed as imposing upon
17 the county any liability for any district decisions or actions, or
18 failures to act, or imposing upon the county any liability for any
19 decisions or actions, or failures to act, by any district officers,
20 employees, or agents. In addition, nothing in this section shall be
21 construed as imposing upon the county any liability for any prior
22 or subsequent district liabilities, whether liquidated or contingent,
23 or any prior or subsequent liabilities of district officers, employees,
24 or agents, whether liquidated or contingent.

25 SEC. 2. Section 61105 of the Government Code is amended
26 to read:

27 61105. (a) The Legislature finds and declares that the unique
28 circumstances that exist in certain communities justify the
29 enactment of special statutes for specific districts. In enacting this
30 section, the Legislature intends to provide specific districts with
31 special statutory powers to provide special services and facilities
32 that are not available to other districts.

33 (b) (1) The Los Osos Community Services District may borrow
34 money from public or private lenders and loan those funds to
35 property owners within the district to pay for the costs of
36 decommissioning septic systems and constructing lateral
37 connections on private property to facilitate the connection of those
38 properties to the district’s wastewater treatment system. The district
39 shall lend money for this purpose at rates not to exceed its cost of
40 borrowing and the district’s cost of making the loans. The district

1 may require that the borrower pay the district's reasonable
2 attorney's fees and administrative costs in the event that the district
3 is required to take legal action to enforce the provisions of the
4 contract or note securing the loan. The district may elect to have
5 the debt payments or any delinquency collected on the tax roll
6 pursuant to Section 61116. To secure the loan as a lien on real
7 property, the district shall follow the procedures for the creation
8 of special tax liens in Section 53328.3 of this code and Section
9 3114.5 of the Streets and Highways Code.

10 (2) (A) (i) Except as otherwise provided in this paragraph, on
11 and after January 1, 2007, the Los Osos Community Services
12 District shall not undertake any efforts to design, construct, and
13 operate a community wastewater collection and treatment system
14 within, or for the benefit of, the district. The district shall resume
15 those powers on the date specified in any resolution adopted
16 pursuant to subdivision (l) of Section 25825.5.

17 (ii) Upon resuming the powers pursuant to subdivision (i), the
18 Los Osos Community Services District may continue the program
19 to ~~subsidize~~ *offset* assessments or charges for very low or
20 low-income households with funding sources, including, but not
21 limited to, grants, adopted pursuant to subdivision (g) of Section
22 25825.5. If the county has not implemented that program, the Los
23 Osos Community Services District may adopt a program that
24 complies with subdivision (g) of Section 25825.5 to ~~subsidize~~
25 *offset* assessments or charges for very low or low-income
26 households. The Los Osos Community Services District shall not
27 include in an assessment or charge an amount to cover the costs
28 to the county in carrying out ~~the subsidy~~ *the offset* program.

29 (B) Nothing in this paragraph shall affect the district's power
30 to do any of the following:

31 (i) Operate wastewater collection and treatment facilities within
32 the district that the district was operating on January 1, 2006.

33 (ii) Provide facilities and services in the territory that is within
34 the district, but outside the prohibition zone.

35 (iii) Provide facilities and services, other than wastewater
36 collection and treatment, within the prohibition zone.

37 (C) Promptly upon the adoption of a resolution by the Board of
38 Supervisors of the County of San Luis Obispo requesting this
39 action pursuant to subdivision (i) of Section 25825.5, the district
40 shall convey to the County of San Luis Obispo all retained

1 rights-of-way, licenses, other interests in real property, funds, and
2 other personal property previously acquired by the district in
3 connection with construction projects for which the district awarded
4 contracts in 2005.

5 (c) The Heritage Ranch Community Services District may
6 acquire, construct, improve, maintain, and operate petroleum
7 storage tanks and related facilities for its own use, and sell those
8 petroleum products to the district's property owners, residents,
9 and visitors. The authority granted by this subdivision shall expire
10 when a private person or entity is ready, willing, and able to
11 acquire, construct, improve, maintain, and operate petroleum
12 storage tanks and related facilities, and sell those petroleum
13 products to the district and its property owners, residents, and
14 visitors. At that time, the district shall either (1) diligently transfer
15 its title, ownership, maintenance, control, and operation of those
16 petroleum tanks and related facilities at a fair market value to that
17 private person or entity, or (2) lease the operation of those
18 petroleum tanks and related facilities at a fair market value to that
19 private person or entity.

20 (d) The Wallace Community Services District may acquire,
21 own, maintain, control, or operate the underground gas distribution
22 pipeline system located and to be located within Wallace Lake
23 Estates for the purpose of allowing a privately owned provider of
24 liquefied petroleum gas to use the underground gas distribution
25 system pursuant to a mutual agreement between the private
26 provider and the district or the district's predecessor in interest.
27 The district shall require and receive payment from the private
28 provider for the use of that system. The authority granted by this
29 subdivision shall expire when the Pacific Gas and Electric
30 Company is ready, willing, and able to provide natural gas service
31 to the residents of Wallace Lake Estates. At that time, the district
32 shall diligently transfer its title, ownership, maintenance, control,
33 and operation of the system to the Pacific Gas and Electric
34 Company.

35 (e) The Cameron Park Community Services District, the El
36 Dorado Hills Community Services District, the Golden Hills
37 Community Services District, the Mountain House Community
38 Services District, the Rancho Murieta Community Services District,
39 the Salton Community Services District, the Stallion Springs
40 Community Services District, and the Tenaja Meadows Community

1 Services District, which enforced covenants, conditions, and
2 restrictions prior to January 1, 2006, pursuant to the former Section
3 61601.7 and former Section 61601.10, may continue to exercise
4 the powers set forth in the former Section 61601.7 and the former
5 Section 61601.10.

6 (f) The Bear Valley Community Services District, the Bell
7 Canyon Community Services District, the Cameron Estates
8 Community Services District, the Lake Sherwood Community
9 Services District, the Saddle Creek Community Services District,
10 the Wallace Community Services District, and the Santa Rita Hills
11 Community Services District may, for roads owned by the district
12 and that are not formally dedicated to or kept open for use by the
13 public for the purpose of vehicular travel, by ordinance, limit access
14 to and the use of those roads to the landowners and residents of
15 that district.

16 (g) Notwithstanding any other provision of law, the transfer of
17 the assets of the Stonehouse Mutual Water Company, including
18 its lands, easements, rights, and obligations to act as sole agent of
19 the stockholders in exercising the riparian rights of the
20 stockholders, and rights relating to the ownership, operation, and
21 maintenance of those facilities serving the customers of the
22 company, to the Hidden Valley Community Services District is
23 not a transfer subject to taxes imposed by Part 11 (commencing
24 with Section 23001) of Division 2 of the Revenue and Taxation
25 Code.

26 (h) The El Dorado Hills Community Services District and the
27 Rancho Murieta Community Services District may each acquire,
28 construct, improve, maintain, and operate television receiving,
29 translating, or distribution facilities, provide television and
30 television-related services to the district and its residents, or
31 authorize the construction and operation of a cable television
32 system to serve the district and its residents by franchise or license.
33 In authorizing the construction and operation of a cable television
34 system by franchise or license, the district shall have the same
35 powers as a city or a county under Section 53066.

36 (i) The Mountain House Community Services District may
37 provide facilities for television and telecommunications systems,
38 including the installation of wires, cables, conduits, fiber optic
39 lines, terminal panels, service space, and appurtenances required
40 to provide television, telecommunication, and data transfer services

1 to the district and its residents, and provide facilities for a cable
2 television system, including the installation of wires, cables,
3 conduits, and appurtenances to service the district and its residents
4 by franchise or license, except that the district may not provide or
5 install any facilities pursuant to this subdivision unless one or more
6 cable franchises or licenses have been awarded under Section
7 53066 and the franchised or licensed cable television and
8 telecommunications services providers are permitted equal access
9 to the utility trenches, conduits, service spaces, easements, utility
10 poles, and rights-of-way in the district necessary to construct their
11 facilities concurrently with the construction of the district's
12 facilities. The district shall not have the authority to operate
13 television, cable, or telecommunications systems, except as
14 provided in Section 61100. The district shall have the same powers
15 as a city or county under Section 53066 in granting a franchise or
16 license for the operation of a cable television system.

17 SEC. 3. The Legislature finds and declares that a special law
18 is necessary and that a general law cannot be made applicable
19 within the meaning of Section 16 of Article IV of the California
20 Constitution because of the unique circumstances facing the County
21 of San Luis Obispo and the Los Osos Community Services District.