

Assembly Bill No. 1125

CHAPTER 177

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

[Approved by Governor August 4, 2011. Filed with
Secretary of State August 4, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1125, Achadjian. Public health: County of San Luis Obispo 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 Services District. Existing law prohibits the Los Osos Community 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 Services District, as specified.

This bill would authorize the County of San Luis Obispo, and the Los Osos Community Services District, upon resuming the responsibilities of operating a community wastewater collection and treatment system, to develop a program that would offset the assessments and charges adopted by the county for very low and 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 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 Services District.

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

SECTION 1. Section 25825.5 of the Government Code is amended to read:

25825.5. (a) The Legislature finds and declares all of the following:

(1) There are ongoing discharges to the Los Osos Discharge Prohibition Zone established in the Water Quality Control Plan for the Central Coast Basin.

(2) The agency responsible for eliminating these discharges is the Los Osos Community Services District, which is a relatively new agency, formed in 1998.

(3) The Central Coast Regional Water Quality Control Board has imposed substantial fines on the Los Osos Community Services District for failing to make adequate progress toward eliminating these discharges.

(4) The Los Osos Community Services District has a relatively small staff that has no experience of successfully designing and constructing facilities of the size and type needed to eliminate these discharges.

(5) The County of San Luis Obispo has a larger staff that has experience in successfully designing large public works projects.

(6) There is an urgent need to protect the public health and safety by eliminating these discharges and the most feasible alternative is best accomplished by a temporary realignment of certain wastewater collection and treatment powers between the Los Osos Community Services District and the County of San Luis Obispo.

(7) It is the intent of the Legislature in enacting this section and amending Section 61105 to authorize the County of San Luis Obispo to design, construct, and operate a wastewater collection and treatment project that will eliminate these discharges, particularly in the prohibition zone, to avoid a wasteful duplication of effort and funds, and to temporarily prohibit the Los Osos Community Services District from exercising those powers.

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

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

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

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

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

(c) The county may 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 district. These efforts may include programs and projects for recharging aquifers, preventing saltwater intrusion, and managing groundwater resources to the extent that they are related to the construction and operation of the community wastewater collection and treatment system. These efforts shall include any services that the county deems necessary, including, but not be limited to, any planning, design, engineering, financial analysis, pursuit of grants to mitigate affordability issues, administrative support, project management, and environmental review and compliance services. The county shall not exercise any powers authorized by this section outside the district.

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

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

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

(e) To finance the construction and operation of a wastewater collection and treatment system, the county may levy benefit assessments consistent with the requirements of Article XIII D of the California Constitution, pursuant to any of the following:

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

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

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

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

(g) The county may develop a program to offset assessments, standby charges, or user fees and charges that are authorized pursuant to subdivisions (e), (f), and (h) for very low or low-income households with funding sources, including, but not limited to, grants, principal forgiveness, and non-county funds from low-interest loans approved for the project by the State Water Resources Control Board or the United States Department of Agriculture. The county shall not include in an assessment or charge an amount to cover the costs to the county in carrying out this subdivision.

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

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

(j) After the approval of a benefit assessment, the board shall complete a due diligence review before deciding to proceed with the construction and operation of a wastewater collection and treatment system. The board shall consider any relevant factors, including, but not limited to, the prompt availability of reasonable and sufficient financing, the status of enforcement actions, the successful development of reasonable project technology and location options, the availability of any necessary permits and other approvals, and the absence of other significant impediments. At the completion of this due diligence review, the board shall adopt a resolution

declaring its intention to proceed or not proceed with the construction and operation of the wastewater collection and treatment system.

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

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

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

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

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

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

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

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

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

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

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

(n) Nothing in this section shall be construed as imposing upon the county any liability for any district decisions or actions, or failures to act, or imposing upon the county any liability for any decisions or actions, or failures to act, by any district officers, employees, or agents. In addition, nothing in this section shall be construed as imposing upon the county any

liability for any prior or subsequent district liabilities, whether liquidated or contingent, or any prior or subsequent liabilities of district officers, employees, or agents, whether liquidated or contingent.

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

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

(b) (1) The Los Osos Community Services District may borrow money from public or private lenders and loan those funds to property owners within the district to pay for the costs of decommissioning septic systems and constructing lateral connections on private property to facilitate the connection of those properties to the district's wastewater treatment system. The district shall lend money for this purpose at rates not to exceed its cost of borrowing and the district's cost of making the loans. The district may require that the borrower pay the district's reasonable attorney's fees and administrative costs in the event that the district is required to take legal action to enforce the provisions of the contract or note securing the loan. The district may elect to have the debt payments or any delinquency collected on the tax roll pursuant to Section 61116. To secure the loan as a lien on real property, the district shall follow the procedures for the creation of special tax liens in Section 53328.3 of this code and Section 3114.5 of the Streets and Highways Code.

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

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

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

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

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

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

(C) Promptly upon the adoption of a resolution by the Board of Supervisors of the County of San Luis Obispo requesting this action pursuant to subdivision (i) of Section 25825.5, the district shall convey to the County of San Luis Obispo all retained rights-of-way, licenses, other interests in real property, funds, and other personal property previously acquired by the district in connection with construction projects for which the district awarded contracts in 2005.

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

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

(e) The Cameron Park Community Services District, the El Dorado Hills Community Services District, the Golden Hills Community Services District, the Mountain House Community Services District, the Rancho Murieta Community Services District, the Salton Community Services District, the Stallion Springs Community Services District, and the Tenaja Meadows Community Services District, which enforced covenants, conditions, and restrictions prior to January 1, 2006, pursuant to the former Section 61601.7 and former Section 61601.10, may continue to exercise the powers set forth in the former Section 61601.7 and the former Section 61601.10.

(f) The Bear Valley Community Services District, the Bell Canyon Community Services District, the Cameron Estates Community Services District, the Lake Sherwood Community Services District, the Saddle Creek

Community Services District, the Wallace Community Services District, and the Santa Rita Hills Community Services District may, for roads owned by the district and that are not formally dedicated to or kept open for use by the public for the purpose of vehicular travel, by ordinance, limit access to and the use of those roads to the landowners and residents of that district.

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

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

(i) The Mountain House Community Services District may provide facilities for television and telecommunications systems, including the installation of wires, cables, conduits, fiber optic lines, terminal panels, service space, and appurtenances required to provide television, telecommunication, and data transfer services to the district and its residents, and provide facilities for a cable television system, including the installation of wires, cables, conduits, and appurtenances to service the district and its residents by franchise or license, except that the district may not provide or install any facilities pursuant to this subdivision unless one or more cable franchises or licenses have been awarded under Section 53066 and the franchised or licensed cable television and telecommunications services providers are permitted equal access to the utility trenches, conduits, service spaces, easements, utility poles, and rights-of-way in the district necessary to construct their facilities concurrently with the construction of the district's facilities. The district shall not have the authority to operate television, cable, or telecommunications systems, except as provided in Section 61100. The district shall have the same powers as a city or county under Section 53066 in granting a franchise or license for the operation of a cable television system.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique

circumstances facing the County of San Luis Obispo and the Los Osos Community Services District.

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