

AMENDED IN ASSEMBLY JUNE 17, 2014

AMENDED IN ASSEMBLY MAY 19, 2014

SENATE BILL

No. 26

Introduced by Senator Correa

December 3, 2012

An act to amend Section 27 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 26, as amended, Correa. Orange County Water ~~District Act:~~ ~~district powers:~~ *District: land use.*

Existing law, the Orange County Water District Act, prescribes the powers of the Orange County Water District. Existing law grants the district the power to perform actions useful or necessary to replenish the underground water basin within the district, or to augment and protect the quality of the common water supplies of the district.

~~This bill would prohibit the district from entering into a real property lease agreement with a nongovernmental entity for purposes not useful or necessary to replenish the underground water basin within the district, or to augment and protect the quality of the common water supplies of the district, unless the agreement is approved by the city council in which the real property is located, if the real property is located within a city.~~

Existing law generally requires a local agency to comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated. Existing law prohibits the application of the building ordinances and zoning ordinances of a county or city to the location or construction of specified water facilities.

This bill would require the district to comply with the above-described provisions relating to building and zoning ordinances. This bill would require the district to provide notice of intent to develop real property owned by the district that is located within the boundaries of a city to the planning agency of that city at least 30 days in advance of any action to approve the development by the district’s board. This bill would require the district to conduct at least one public meeting in a city where a water facility exempt from the application of building ordinances and zoning ordinances would be located or constructed.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Orange.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. *It is the intent of the Legislature that the Orange*
- 2 *County Water District adopt a policy to address the process for*
- 3 *development of property owned by the district that is located within*
- 4 *the boundaries of a city, with the following goals:*
- 5 (i) *To clarify, by amending the Orange County Water District*
- 6 *Act (Chapter 924 of the Statutes of 1933), that Article 5*
- 7 *(commencing with Section 53090) of Chapter 1 of Part 1 of*
- 8 *Division 2 of Title 5 of the Government Code, related to the*
- 9 *regulation of local agencies by counties and cities, applies to any*
- 10 *property owned by the district.*
- 11 (ii) *To foster greater collaboration between the district and a*
- 12 *city on the development of real property owned by the district*
- 13 *located within the boundaries of that city.*
- 14 (iii) *To provide increased transparency to the community in land*
- 15 *use decisions with respect to the development of real property*
- 16 *owned by the district located within the boundaries of a city.*

1 *SEC. 2. Section 7 of the Orange County Water District Act*
2 *(Chapter 924 of the Statutes of 1933) is amended to read:*

3 *Sec. 7. (a) The legal title to all property acquired under the*
4 ~~*provisions of this act shall immediately and by operation of law*~~
5 ~~*vest in said the district, and shall be held by said the district, in*~~
6 ~~*trust for, and is hereby dedicated and set apart to, the uses and*~~
7 ~~*purposes set forth in this act. The board of directors is hereby*~~
8 ~~*authorized and empowered to hold, use, acquire, manage, occupy*~~
9 ~~*and possess said the property, as herein provided; and said provided*~~
10 ~~*in this act. The board of directors may determine, by resolution*~~
11 ~~*duly entered in their minutes that any property, real or personal,*~~
12 ~~*held by said the district is no longer necessary to be retained for*~~
13 ~~*the uses and purposes thereof of the district, and may thereafter*~~
14 ~~*sell or otherwise dispose of said the property.*~~

15 *(b) The district shall comply with Article 5 (commencing with*
16 *Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5 of*
17 *the Government Code for any property owned by the district.*

18 *(c) The district shall provide notice of intent to develop real*
19 *property owned by the district that is located within the boundaries*
20 *of a city to the planning agency of that city at least 30 days in*
21 *advance of any action to approve the development by the district's*
22 *board.*

23 *(d) For the location or construction of a facility specified in*
24 *subdivision (e) of Section 53091 of the Government Code that is*
25 *proposed to be located within the boundaries of a city, the district*
26 *shall conduct at least one public meeting in that city.*

27 *SEC. 3. The Legislature finds and declares that a special law*
28 *is necessary and that a general law cannot be made applicable*
29 *within the meaning of Section 16 of Article IV of the California*
30 *Constitution because of the unique parcels of land in the County*
31 *of Orange and the need to ensure that the development of real*
32 *property by the Orange County Water District not subject to local*
33 *planning and zoning ordinances is open to public scrutiny.*

34 *SEC. 4. If the Commission on State Mandates determines that*
35 *this act contains costs mandated by the state, reimbursement to*
36 *local agencies and school districts for those costs shall be made*
37 *pursuant to Part 7 (commencing with Section 17500) of Division*
38 *4 of Title 2 of the Government Code.*

1 SECTION 1. ~~Section 2 of the Orange County Water District Act~~
2 ~~(Chapter 924 of the Statutes of 1933), as amended by Chapter 802~~
3 ~~of the Statutes of 1989, is amended to read:~~

4 Sec. 2. ~~The “Orange County Water District” shall have the~~
5 ~~following powers:~~

6 ~~(1) To have perpetual succession.~~

7 ~~(2) To sue and be sued, except as otherwise provided herein or~~
8 ~~by law, in all actions and proceedings in all courts and tribunals.~~

9 ~~(3) To adopt a seal and alter it at pleasure.~~

10 ~~(4) To take by grant, purchase, gift, devise, or lease, to hold,~~
11 ~~use and enjoy, and to lease, convey, or dispose of, real and personal~~
12 ~~property of every kind, within or without the district, necessary or~~
13 ~~convenient to the full exercise of its powers.~~

14 ~~(5) Within or outside of the district to construct, purchase, lease,~~
15 ~~or otherwise acquire, and to operate and maintain necessary~~
16 ~~waterworks and other works, machinery, facilities, canals, conduits,~~
17 ~~waters, water rights, spreading grounds, lands, rights and privileges~~
18 ~~useful or necessary to replenish the underground water basin within~~
19 ~~the district, or to augment and protect the quality of the common~~
20 ~~water supplies of the district, and purposes incidental thereto. The~~
21 ~~district shall not enter into a real property lease agreement with a~~
22 ~~nongovernmental entity for purposes not useful or necessary to~~
23 ~~replenish the underground water basin within the district, or to~~
24 ~~augment and protect the quality of the common water supplies of~~
25 ~~the district, unless the agreement is approved by the city council~~
26 ~~in which the real property is located, if the real property is located~~
27 ~~within a city.~~

28 ~~(6) For the common benefit of the district and for the purpose~~
29 ~~of managing the groundwater basin and managing, replenishing,~~
30 ~~regulating, and protecting the groundwater supplies within the~~
31 ~~district, to exercise the following powers:~~

32 ~~(a) Provide for the conjunctive use of groundwater and surface~~
33 ~~water resources within the district area.~~

34 ~~(b) Store water in underground water basins or reservoirs within~~
35 ~~or outside of the district.~~

36 ~~(c) Regulate and control the storage of water and the use of~~
37 ~~groundwater basin storage space in the groundwater basin within~~
38 ~~the district and pursuant to the provisions set forth in Section 2.1~~
39 ~~to (1) determine the amount of storage space available in the~~
40 ~~groundwater basin within the district, (2) allocate that available~~

1 groundwater storage space, and (3) enter into groundwater storage
2 agreements, provided that the district shall have no authority under
3 the provisions of this section, except the provisions of paragraph
4 (f) of this subdivision, to limit the extraction of groundwater within
5 the district, except to the extent that a party may agree thereto
6 under the groundwater storage or other agreement.

7 ~~(d) Appropriate and acquire water and water rights within or~~
8 ~~outside of the district.~~

9 ~~(e) Purchase and import water into the district.~~

10 ~~(f) Conserve and reclaim water within or outside of the district.~~

11 ~~(g) Buy and sell water at rates as shall be determined by the~~
12 ~~board of directors.~~

13 ~~(h) Exchange water.~~

14 ~~(i) Distribute water to persons in exchange for ceasing or~~
15 ~~reducing groundwater extractions.~~

16 ~~(j) Transport, reclaim, purify, treat, inject, extract, or otherwise~~
17 ~~manage and control water for the beneficial use of persons or~~
18 ~~property within the district and to improve and protect the quality~~
19 ~~of the groundwater supplies within the district.~~

20 ~~(k) Fix the terms and conditions of any contract under which~~
21 ~~owners or operators of water-producing facilities within the district~~
22 ~~may agree to use water from an alternative nontributary source in~~
23 ~~lieu of groundwater, and to that end, the district may become a~~
24 ~~party to that contract and may pay from district funds that portion~~
25 ~~of the cost of water from an alternate source as will encourage the~~
26 ~~purchase and use of the same in lieu of producing groundwater,~~
27 ~~as long as persons or property within the district are directly or~~
28 ~~indirectly benefited by the resulting replenishment.~~

29 ~~(l) Fix the terms and conditions of any contract under which the~~
30 ~~owner or operator of a water-producing facility within the district~~
31 ~~may agree to increase the production of groundwater in lieu of~~
32 ~~water from an alternative nontributary source for the purpose of~~
33 ~~removing contaminants or pollutants from the groundwater basin.~~
34 ~~The district may become a party to that contract and may pay from~~
35 ~~district funds that portion of the cost of the groundwater production~~
36 ~~as will encourage the production for beneficial use of polluted or~~
37 ~~contaminated groundwater, as long as that pollution or~~
38 ~~contamination is impairing the quality of the water supplies within~~
39 ~~the district and the quality of the water supplies within the district~~
40 ~~will be improved by that production.~~

1 ~~(m) Determine in the manner herein provided the amount and~~
2 ~~percentage of water produced from the groundwater supplies within~~
3 ~~the district to the total amount of water produced within the district~~
4 ~~by all persons and operators, including the total amount of water~~
5 ~~from supplemental sources; require that persons and operators~~
6 ~~produce more or less of their total water needs from the~~
7 ~~groundwater within the district than the basin production~~
8 ~~percentage determined by the district as provided herein; levy a~~
9 ~~basin equity assessment, which may be uniform or nonuniform in~~
10 ~~amount as determined by the board of directors of the district, on~~
11 ~~each person and operator who produces more water from the~~
12 ~~groundwater within the district; and to compensate other persons~~
13 ~~and operators who are directed by the district to produce less than~~
14 ~~the basin production percentage from groundwater within the~~
15 ~~district.~~

16 ~~(7) To provide for the protection and enhancement of the~~
17 ~~environment within and outside the district in connection with the~~
18 ~~water activities of the district.~~

19 ~~(8) To provide, by agreement with other public agencies or~~
20 ~~private persons or entities or otherwise, for the recreational use of~~
21 ~~the lands, facilities, and works of the district which shall not~~
22 ~~interfere, or be inconsistent, with the primary use and purpose of~~
23 ~~the lands, facilities, and works by the district.~~

24 ~~(9) To carry out the purposes of this act, to commence, maintain,~~
25 ~~intervene in, defend, and compromise, in the name of the district,~~
26 ~~or otherwise, and to assume the costs and expenses of any and all~~
27 ~~actions and proceedings now or hereafter begun to prevent~~
28 ~~interference with water or water rights used or useful to lands~~
29 ~~within the district, or diminution of the quantity or pollution or~~
30 ~~contamination of the water supply of the district, or to prevent~~
31 ~~unlawful exportation of water from the district, or to prevent any~~
32 ~~interference with the water or water rights used or useful in the~~
33 ~~district which may endanger or damage the inhabitants, lands, or~~
34 ~~use of water in the district; provided, however, that the district~~
35 ~~shall not have power to intervene or take part in, or to pay costs~~
36 ~~or expenses of, actions or controversies between the owners of~~
37 ~~lands or water rights all of which are entirely within the boundaries~~
38 ~~of the district and which do not involve pollution or contamination~~
39 ~~of water within the district or exporting water outside of the~~
40 ~~district's boundaries or any threat thereof.~~

1 ~~(10) To exercise the right of eminent domain to take any~~
2 ~~property necessary to the exercise of any of the powers granted~~
3 ~~by this act, except that the district shall not have the right of~~
4 ~~eminent domain as to water, water rights, reservoirs, pipelines,~~
5 ~~water distributing systems, waterworks, or powerplants, all or any~~
6 ~~of which are already devoted to beneficial or public use and located~~
7 ~~within the watershed of the Santa Ana River, and excepting further~~
8 ~~from the exercise of the right of eminent domain by the district~~
9 ~~any property maintained and actually used for the scientific~~
10 ~~propagation and study of plantlife. No language or provision of~~
11 ~~this act, or of this subdivision, shall be interpreted or construed so~~
12 ~~as to limit or abridge the right of the district, or its board of~~
13 ~~directors, to exercise its right of eminent domain to condemn~~
14 ~~property at any place within the Santa Ana River watershed for~~
15 ~~rights-of-ways upon and across and under which to construct~~
16 ~~pipelines, conduits, tunnels, aqueducts, or any combination thereof,~~
17 ~~necessary or convenient for any of the purposes of the district~~
18 ~~provided the property sought to be condemned for the purposes is~~
19 ~~not already being used by other corporations, municipalities,~~
20 ~~districts, or individuals for similar purposes; providing, however,~~
21 ~~that neither the district nor its board of directors shall have power~~
22 ~~to enter in or upon the Mojave River or any of its tributaries or~~
23 ~~appropriate, take, or condemn any of the water or the right to the~~
24 ~~use of any of the water of the Mojave River or any of its tributaries;~~
25 ~~nor shall anything in this act be deemed as authorizing or~~
26 ~~empowering the district or its board of directors to so do.~~

27 ~~(11) The district shall, in addition to the other powers granted~~
28 ~~by this act, have the following rights and powers: to act jointly~~
29 ~~with or cooperate with the United States or any agency of the~~
30 ~~United States, the State of California or any agency of the state,~~
31 ~~any county of the State of California, districts of any kind, public~~
32 ~~and private corporations, and any person or persons, to carry out~~
33 ~~the provisions and purposes of this act. In those joint or cooperative~~
34 ~~activities, the district may act within or outside of its boundaries.~~

35 ~~(12) To cause assessments or charges, or both, to be levied as~~
36 ~~provided in this act to accomplish the purposes of this act.~~

37 ~~(13) To make contracts, to employ labor, and to do all acts~~
38 ~~necessary for the full exercise of the foregoing powers.~~

39 ~~(14) To carry on technical and other investigations of all kinds,~~
40 ~~necessary to carry out this act, and for this purpose the district~~

1 shall have the right of access through its authorized representative
2 to all properties within the district.

3 ~~SEC. 2. The Legislature finds and declares that a special law~~
4 ~~is necessary and that a general law cannot be made applicable~~
5 ~~within the meaning of Section 16 of Article IV of the California~~
6 ~~Constitution because of the unique parcels of land in the County~~
7 ~~of Orange and the need to ensure that the land is properly leased.~~

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