

AMENDED IN SENATE MAY 15, 2013

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 658

Introduced by Senator Correa

(~~Coauthor: Senator Wyland~~)

(Coauthors: Assembly Members Hagman, Harkey, Mansoor, and
Wagner)

February 22, 2013

An act to amend Section 8 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), relating to water ~~quality, and~~ and declaring the urgency thereof, to take effect immediately *quality*.

LEGISLATIVE COUNSEL'S DIGEST

SB 658, as amended, Correa. Orange County Water District Act: investigation, cleanup, and liability.

Existing law, the Municipal Water District Law of 1911, authorizes the formation of a municipal water district to acquire and sell water, and specifies the powers and purposes of a municipal water district. The Municipal Water District of Orange County is a district established pursuant to that law.

The Orange County Water District Act establishes the Orange County Water District, consisting of specified lands in the County of Orange, including the Cities of Anaheim, Fullerton, and Santa Ana. The act authorizes the district to investigate the quality of the surface and groundwaters within the district to determine whether the waters are contaminated or polluted and authorizes the district to expend funds to perform any cleanup, abatement, or remedial work to prevent, abate, or contain the contamination of, or pollution to, the surface or groundwaters of the district. The act requires the person causing or

threatening to cause the contamination or pollution to be liable to the district for reasonable costs actually incurred in cleaning up or containing the contamination or pollution, abating the effects of the contamination or pollution, or taking other remedial action.

This bill would require the person also to be liable for the costs actually incurred in investigating the contamination or pollution. The bill would provide that these remedies are in addition to all other legal and equitable remedies available to the water district, including declaratory relief.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -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 that, in adding
2 Section 8 to the Orange County Water District Act in 1989, the
3 Legislature intended that (1) the costs incurred by the district in
4 conducting investigations to study, monitor, and evaluate the cause,
5 and the nature and extent of any existing or threatened
6 contamination, would be part of the cleanup, abatement, and
7 remedial costs recoverable against the persons causing, or
8 threatening to cause, contamination of the surface or groundwaters
9 within the district, and (2) the district would be entitled to
10 commence a civil action against, and recover damages from, the
11 persons causing, or threatening to cause, the contamination,
12 investigation, cleanup, abatement, and remedial costs incurred, or
13 to be incurred, by the district at the time the liability of the persons
14 was determined in litigation, regardless of whether all investigative,
15 cleanup, abatement, and remedial work was completed by that
16 time. The Legislature further finds and declares that this act is
17 declaratory of existing law.

18 SEC. 2. Section 8 of the Orange County Water District Act
19 (Chapter 924 of the Statutes of 1933), as added by Section 4 of
20 Chapter 802 of the Statutes of 1989, is amended to read:

21 Sec. 8. (a) The district may conduct any investigation of the
22 quality of the surface and groundwaters within the district that the
23 district determines to be necessary and appropriate to determine
24 whether those waters are contaminated or polluted.

1 (b) The district may expend available funds to perform any
2 ~~investigation~~ *investigation*, cleanup, abatement, or remedial work
3 required under the circumstances that, in the determination of the
4 board of directors, is required by the magnitude of the endeavor
5 or the urgency of prompt action needed to prevent, abate, or contain
6 any threatened or existing contamination of, or pollution to, the
7 surface or groundwaters of the district. This action may be taken
8 in default of, or in addition to, remedial work by the person causing
9 the contamination or pollution, or other persons. The district may
10 perform the work itself, by contract, or by or in cooperation with
11 another governmental agency.

12 (c) If, pursuant to subdivision (b), any contamination or pollution
13 is investigated, cleaned up, or contained, the effects of the
14 contamination or pollution abated, or in the case of threatened
15 contamination or pollution, other necessary remedial action is
16 taken, the person causing or threatening to cause that contamination
17 or pollution shall be liable to the district to the extent of the
18 reasonable costs actually incurred in investigating, cleaning up,
19 or containing the contamination or pollution, abating the effects
20 of the contamination or pollution, or taking other remedial action.
21 The amount of those costs, together with court costs and reasonable
22 attorney's fees, shall be recoverable in a civil action by, and paid
23 to, the district. In this action, the necessity for the investigation,
24 cleanup, containment, abatement, or remedial work, and the
25 reasonableness of the costs incurred therewith, shall be presumed,
26 and the defendant shall have the burden of proving that the work
27 was not necessary, and the costs not reasonable.

28 (d) The remedies provided under this section are in addition to
29 all other legal or equitable remedies available to the district under
30 statute or common law, including declaratory relief regarding
31 liability for the district's future costs.

32 ~~SEC. 3.— This act is an urgency statute necessary for the~~
33 ~~immediate preservation of the public peace, health, or safety within~~
34 ~~the meaning of Article IV of the Constitution and shall go into~~
35 ~~immediate effect. The facts constituting the necessity are:~~

36 ~~In order to ensure that the Orange County Water District may,~~
37 ~~at the earliest possible opportunity, investigate, clean up, and~~
38 ~~remediate groundwater contamination that affects the quality of~~
39 ~~drinking water resources of approximately 2,400,000 Orange~~

- 1 ~~County residents, it is necessary that this act take effect~~
- 2 ~~immediately.~~

O