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 declaring the urgency thereof, to take effect immediately.

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.


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

SECTION 1. The Legislature finds and declares that, in adding Section 8 to the Orange County Water District Act in 1989, the Legislature intended that (1) the costs incurred by the district in conducting investigations to study, monitor, and evaluate the cause, and the nature and extent of any existing or threatened contamination, would be part of the cleanup, abatement, and remedial costs recoverable against the persons causing, or threatening to cause, contamination of the surface or groundwaters within the district, and (2) the district would be entitled to commence a civil action against, and recover damages from, the persons causing, or threatening to cause, the contamination, investigation, cleanup, abatement, and remedial costs incurred, or to be incurred, by the district at the time the liability of the persons was determined in litigation, regardless of whether all investigative, cleanup, abatement, and remedial work was completed by that time. The Legislature further finds and declares that this act is declaratory of existing law.

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

Sec. 8. (a) The district may conduct any investigation of the quality of the surface and groundwaters within the district that the district determines to be necessary and appropriate to determine whether those waters are contaminated or polluted.
(b) The district may expend available funds to perform any investigation, cleanup, abatement, or remedial work required under the circumstances that, in the determination of the board of directors, is required by the magnitude of the endeavor or the urgency of prompt action needed to prevent, abate, or contain any threatened or existing contamination of, or pollution to, the surface or groundwaters of the district. This action may be taken in default of, or in addition to, remedial work by the person causing the contamination or pollution, or other persons. The district may perform the work itself, by contract, or by or in cooperation with another governmental agency.

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

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

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

In order to ensure that the Orange County Water District may, at the earliest possible opportunity, investigate, clean up, and remediate groundwater contamination that affects the quality of drinking water resources of approximately 2,400,000 Orange
County residents, it is necessary that this act take effect immediately.