

ASSEMBLY BILL

No. 541

Introduced by Assembly Member Dahle

February 23, 2015

An act to create the Big Valley Watermaster District, and prescribing its boundaries, organization, operation, management, financing, and other powers and duties, relating to water districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 541, as introduced, Dahle. Big Valley Watermaster District Act.

Existing law provides for the establishment of watermaster service areas by the Department of Water Resources for the purposes of ensuring the most practical and economic supervision of the distribution of water. Existing law specifies that upon the submission of a specified petition to a court in which a relevant judicial decree has been entered, the court may appoint a public agency as a watermaster to replace the watermaster appointed by the department.

This bill would create a watermaster district with unspecified boundaries within the Counties of Lassen and Modoc to be known as the Big Valley Watermaster District. The bill would generally specify the powers and purposes of the district. The bill would prescribe the composition of the board of directors of the district. The bill would require the district to provide watermaster service on behalf of water right holders whose place of use under an appointed decree, as defined, is a parcel of real property within the district. The bill would authorize the district to enter into an agreement to provide watermaster service to water right holders whose place of use is an eligible parcel, as defined. The bill would require the board of directors of the district to provide for the preparation of regular audits of the district's accounts and records

and specified annual financial reports. By imposing duties on the district and the Counties of Lassen and Modoc in connection with the operation of the district, the bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Big Valley Water District.

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

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

1 SECTION 1. This act shall be known and may be cited as the
2 Big Valley Watermaster District Act. It is intended to supplement
3 the Water Code as follows:

4

5 Big Valley Watermaster District Act

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7 Article 1. Creation

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9 101. This act shall be known, and may be cited, as the Big
10 Valley Watermaster District Act.

11 102. (a) A watermaster district is hereby created in Modoc
12 County and Lassen County to be known as the Big Valley
13 Watermaster District.

14 (b) The district shall be governed by a board of directors as
15 specified in Section 401, shall have boundaries as prescribed in
16 Section 201, and shall exercise the powers granted by this act for
17 purposes of acting as watermaster over those decreed water rights
18 whose places of use are within the Big Valley and for which the
19 Superior Court for the County of Modoc has appointed the district
20 as the watermaster, together with other powers and duties that are
21 granted by this act or reasonably implied and necessary and proper
22 to carry out the purposes of the district, including, but not limited
23 to, any power authorized by the court which appoints the district
24 as watermaster.

1 (c) The Legislature hereby finds and declares that the
 2 cost-effective and responsible enforcement of existing decreed
 3 water rights within the Big Valley is in the public interest, and that
 4 the creation of a watermaster district that can serve in that capacity
 5 after proper appointment by the Superior Court for Modoc County
 6 is for the common benefit of the holders of those decreed water
 7 rights within the Big Valley and for the protection of agricultural
 8 and economic productivity.

9
 10 Article 2. Boundaries

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 12 201. For the purposes of this act, all of the following townships
 13 that lie within the county comprise the territory that is included in
 14 the Big Valley Watermaster District:

15 _____

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 17 Article 3. Definitions

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 19 301. Unless otherwise indicated by their context, the definitions
 20 set forth in this article govern the construction of this act.

21 302. “Appointed decree” means a decree for which the district
 22 is appointed the watermaster by the court.

23 303. “Appointed parcel” means a parcel of real property within
 24 the district that is a place of use for water rights under an appointed
 25 decree.

26 304. “Big Valley” means that portion of the district generally
 27 drained by the Pit River.

28 305. “Big Valley Service Area” means the territory included
 29 in the Big Valley Water District as specified in Section 201.

30 306. “Board of directors” or “board” means the board of
 31 directors of the district.

32 307. “Contracted parcel” means an eligible parcel whose owner
 33 has entered into a contract with the district to provide watermaster
 34 service for that parcel.

35 308. “County” means the County of Lassen, the County of
 36 Modoc, or both.

37 309. “Court” means the Superior Court for the County of
 38 Modoc.

39 310. “Decree” means any water right decree, entered by the
 40 court, which adjudicates water rights within the county in which

1 the decreed points of diversion are within the Big Valley in the
2 county.

3 311. “Department” means the Department of Water Resources.

4 312. “District” means the Big Valley Watermaster District.

5 313. “Eligible parcel” means a parcel of real property within
6 the district that is a place of use for water rights under a decree
7 that is not an appointed decree, and for which the department is
8 not the watermaster.

9 314. “Fund” means the fund designated by the court, or by the
10 district in the absence of a designation by the court, into which
11 charges levied by the district shall be paid by the county upon
12 collection.

13 315. “Owner” means a person who is an owner of a parcel of
14 real property within the district that is a place of use for water
15 rights under the decree.

16 316. “Person” means any state or local governmental agency,
17 private corporation, firm, partnership, individual, group of
18 individuals, or, to the extent authorized by law, any native tribe
19 or federal agency.

20 317. “Voter” means a holder of water rights whose place of
21 use under a decree is an appointed or contracted parcel.

22

Article 4. General Provisions

23

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25 401. (a) The board of directors shall govern the district and
26 shall exercise the powers of the district as set forth in this act.

27 (b) Except as specified in subdivision (d), the board of directors
28 of the district shall consist of five members elected at large from
29 the Big Valley Service Area. Each director shall be a voter and an
30 owner. The directors shall be elected at large from the Big Valley
31 Service Area.

32 (c) A quorum of the board of directors shall be three members.
33 A majority of affirmative votes of the full membership of the board
34 shall be required to take an action.

35 (d) (1) (A) The initial five directors of the district shall be the
36 directors of the Big Valley Water Users Association as of
37 December 31, 2015. Each initial director’s term shall be as
38 specified in subparagraph (B).

39 (B) For the initial board of directors, in the same sequence as
40 the terms of the directors of the Big Valley Water Users

1 Association, one director's term shall end March 31, 2016, two
2 directors terms shall end March 31, 2017, and two directors terms
3 shall end March 31, 2018.

4 (2) After the initial board of directors, each director shall have
5 a term of three years. A person shall be an owner to be elected to
6 the board.

7 (e) Except as otherwise provided in this act, the Uniform District
8 Election Law (Part 4 (commencing with Section 10500) of Division
9 10 of the Elections Code) shall apply to elections within the district.

10 (f) Any vacancy in the elective office of a member of the board
11 of directors shall be filled pursuant to Section 1780 of the
12 Government Code. Any vacancy in the appointive office of a
13 member of the board of directors shall be filled pursuant to Section
14 1778 of the Government Code.

15 402. (a) For the purposes of the Uniform District Election
16 Law, the district shall be deemed to be a landowner voting district,
17 except that each voter shall have one vote.

18 (b) In a manner that is consistent with Section 10525 of the
19 Elections Code, for water rights that have multiple holders, the
20 holders shall designate in writing to the district, in accordance with
21 a timetable established by the district, a voter from among their
22 number for voting purposes.

23 403. (a) The board of directors shall do all of the following:

- 24 (1) Act only by ordinance, resolution, or motion.
- 25 (2) Keep a record of all of its actions, including financial
26 transactions.
- 27 (3) Adopt rules or bylaws for its proceedings.
- 28 (4) Adopt policies for the operation of the district.

29 (b) The board of directors may do all of the following:

30 (1) Provide, by ordinance or resolution, that its members may
31 receive their actual and necessary traveling and incidental expenses
32 incurred while on official business. Reimbursement of these
33 expenses is subject to Section 53232.3 of the Government Code.
34 A member of the board of directors may waive any or all of the
35 payments permitted by this paragraph.

36 (2) Require any employee, officer, or member of the board of
37 directors to be bonded. The district shall pay the cost of the bonds.

38 (c) Prior to taking office, each director shall take the official
39 oath and execute any bond that may be set by the board.

1 404. At the first meeting of the board of directors, and at the
2 first annual meeting each year thereafter, the board of directors
3 shall elect a chairperson and vice chairperson from among its
4 members. The board of directors shall appoint a secretary of the
5 district. The secretary of the district may be a member of the board
6 of directors or a district employee.

7 405. Meetings of the board shall be held pursuant to the Ralph
8 M. Brown Act (Chapter 9 (commencing with Section 54950) of
9 Part 1 of Division 2 of Title 5 of the Government Code).

10 406. The district shall have the following powers:

11 (a) Adopt ordinances in accordance with Article 7 (commencing
12 with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title
13 3 of the Government Code.

14 (b) Adopt and enforce rules and regulations for the
15 administration, operation, use, and maintenance of the district's
16 facilities and property.

17 (c) Sue and be sued in its own name.

18 (d) Acquire any real or personal property within the district, by
19 contract or otherwise, to hold, manage, occupy, dispose of, convey,
20 and encumber the property, and to create a leasehold interest in
21 the property for the benefit of the district. The district shall not
22 have the power of eminent domain.

23 (e) Appoint employees, define their qualifications and duties,
24 and provide a schedule of compensation for performance of their
25 duties.

26 (f) Engage counsel and other professional services.

27 (g) Enter into and perform all contracts. The district shall follow
28 the procedures that apply to the county, including, but not limited
29 to, the requirements of Article 3.6 (commencing with Section
30 20150) of Chapter 1 of Part 3 of Division 2 of the Public Contract
31 Code.

32 (h) Adopt a seal and alter it.

33 (i) Take any and all actions necessary for, or incidental to, the
34 powers expressed or implied by this act.

35 407. (a) The board of directors shall provide for the preparation
36 of regular audits of the district's accounts and records pursuant to
37 Section 26909 of the Government Code.

38 (b) The board of directors shall provide for the preparation of
39 annual financial reports to the Controller pursuant to Article 9

1 (commencing with Section 53890) of Chapter 4 of Part 1 of
2 Division 2 of Title 5 of the Government Code.

3 408. All claims for money or damages against the district are
4 governed by Part 3 (commencing with Section 900) and Part 4
5 (commencing with Section 940) of Division 3.6 of Title 1 of the
6 Government Code.

7 409. The district is not subject to the Cortese-Knox-Hertzberg
8 Local Government Reorganization Act of 2000 (Division 3
9 (commencing with Section 56000) of Title 5 of the Government
10 Code).

11 410. The provisions of this act are severable. If any provision
12 of this act or its application is held invalid, that invalidity shall not
13 affect other provisions or applications that can be given effect
14 without the invalid provision or application.

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16 Article 5. Powers and Duties

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18 501. The district shall serve as the watermaster for any
19 appointed decree, including, but not limited to, taking specific
20 actions ordered by the court in the administration of that decree
21 or decrees.

22 502. (a) In carrying out its duties as watermaster, the district
23 shall assume all powers and duties of the department set forth in
24 Part 4 (commencing with Section 4000) of Division 2 of the Water
25 Code, except as modified by the court, and as follows:

26 (1) References to the department in that part shall be deemed
27 to be references to the district.

28 (2) References to the Water Resources Revolving Fund in that
29 part shall be deemed to be references to the fund.

30 (b) Charges levied by the district shall comply with Article
31 XIII D of the California Constitution.

32 503. The district may enter into an agreement to provide
33 watermaster service to the holders of water rights whose place of
34 use is an eligible parcel if all the holders have executed the
35 agreement. An agreement to provide watermaster services to an
36 eligible parcel shall include a provision that the water right holders
37 agree to pay in full for the service prior to the provision of service.
38 The amount to be paid shall be determined to ensure that the
39 provision of the watermaster service to contracted parcels does

1 not increase the cost of the watermaster service to appointed
2 parcels.

3 504. Amounts owed to the county for services provided to the
4 district by the county shall be included in the district’s budget for
5 each watermaster service area. The watermaster service areas for
6 which these amounts have been incurred shall be identified and
7 accounted for in the budget.

8 SEC. 2. The Legislature finds and declares that a special law
9 is necessary and that a general law cannot be made applicable
10 within the meaning of Section 16 of Article IV of the California
11 Constitution because of the unique and special water problems in
12 the area of the Big Valley Water District that make this special
13 law necessary for the conservation, development, control, and use
14 of that water for the public good.

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 a local agency or school district has the authority to levy service
18 charges, fees, or assessments sufficient to pay for the program or
19 level of service mandated by this act, within the meaning of Section
20 17556 of the Government Code.