

Assembly Bill No. 376

Passed the Assembly September 15, 1995

Chief Clerk of the Assembly

Passed the Senate September 14, 1995

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1995, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to add Section 61612.5 to the Government Code, to amend Section 16472.5 of the Public Utilities Code, and to add Sections 31016, 35413, and 71601 to the Water Code, relating to public agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 376, Bustamante. Public agencies: investigations of violations.

Existing law authorizes the formation of public utility districts for the provision of specified utility services, community services districts for the delivery of other specified services, and irrigation districts, and county, municipal, and California water districts for the provision of water related services, and sets forth the powers of those districts in adopting and enforcing their ordinances, or rules or regulations pertaining to the sale or distribution of water in the case of certain water districts.

This bill would authorize public utility districts, community services districts, and county, municipal, and state water districts to enter upon the private property of any person within the jurisdiction of those districts to investigate possible violations of district ordinances, subject to consent of the owner or tenant or the issuance of an inspection warrant issued upon probable cause.

The bill would also require a county, municipal, or state water district to make certain notifications to appropriate county or city officials concerning any violations found pursuant to those investigations.

Because the willful refusal of an inspection lawfully authorized by warrant is a misdemeanor, this bill would impose a state-mandated local program by creating a new crime.

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.

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

SECTION 1. Section 61612.5 is added to the Government Code, to read:

61612.5. The district may enter upon the private property of any person within the jurisdiction of the district in order to investigate possible violations of an ordinance of the district that has been adopted in order for the district to carry out only the purposes specified in subdivision (a) or (b) of Section 61600. The investigation shall be made with the consent of the owner or tenant of the property or, if consent is refused, with a warrant duly issued pursuant to the procedures set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, except that, notwithstanding Section 1822.52 of the Code of Civil Procedure, the warrant shall be issued only upon probable cause.

SEC. 2. Section 16472.5 of the Public Utilities Code is amended to read:

16472.5. (a) In order to enforce the provisions of any ordinance of the district, including an ordinance fixing charges for the furnishing of commodities or services, the district may correct any violation of an ordinance of the district. The district may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any ordinance of the district or for the issuance of an order stopping or disconnecting a service if the charges for that service are unpaid at the time specified in the ordinance.

(b) The district may enter upon the private property of any person within the jurisdiction of the district in order to investigate possible violations of an ordinance of the district. The investigation shall be made with the consent of the owner or tenant of the property or, if consent is refused, with a warrant duly issued pursuant to the procedures set forth in Title 13 (commencing with



Section 1822.50) of Part 3 of the Code of Civil Procedure, except that, notwithstanding Section 1822.52 of the Code of Civil Procedure, the warrant shall be issued only upon probable cause.

SEC. 3. Section 31016 is added to the Water Code, to read:

31016. (a) In order to enforce the provisions of any ordinance of the district, including an ordinance fixing charges for the furnishing of commodities or services, the district may correct any violation of an ordinance of the district. The district may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any ordinance of the district or for the issuance of an order stopping or disconnecting a service if the charges for that service are unpaid at the time specified in the ordinance.

(b) The district may enter upon the private property of any person within the jurisdiction of the district in order to investigate possible violations of an ordinance of the district. The investigation shall be made with consent of the owner or tenant of the property or, if consent is refused, with a warrant duly issued pursuant to the procedures set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, except that, notwithstanding Section 1822.52 of the Code of Civil Procedure, the warrant shall be issued only upon probable cause.

(c) The district shall notify the county or city building inspector, county health inspector, or other affected county or city employee or office, in writing, within a reasonable time if an actual violation of a district, city, or county ordinance is discovered during the investigation.

SEC. 4. Section 35413 is added to the Water Code, to read:

35413. (a) In order to enforce the provisions of any ordinance of the district, including an ordinance fixing charges for the furnishing of commodities or services, or to enforce any district rule or regulation adopted by the board of directors pursuant to Section 35421 or 35423



pertaining to the sale or distribution of water, the district may correct any violation of an ordinance of the district or of the rule or regulation. The district may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any ordinance, rule, or regulation, of the district or for the issuance of an order stopping or disconnecting a service if the charges for that service are unpaid at the time specified in the ordinance, rule, or regulation.

(b) The district may enter upon the private property of any person within the jurisdiction of the district in order to investigate possible violations of an ordinance of the district or law, rule, or regulation described in subdivision (a). The investigation shall be made with the consent of the owner or tenant of the property or, if consent is refused, with a warrant duly issued pursuant to the procedures set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, except that, notwithstanding Section 1822.52 of the Code of Civil Procedure, the warrant shall be issued only upon probable cause.

(c) The district shall notify the county or city building inspector, county health inspector, or other affected county or city employee or office, in writing, within a reasonable time if an actual violation of a district, city, or county ordinance is discovered during the investigation.

SEC. 5. Section 71601 is added to the Water Code, to read:

71601. (a) In order to enforce the provisions of any ordinance of the district, including an ordinance fixing charges for the furnishing of commodities or services, the district may correct any violation of an ordinance of the district. The district may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any ordinance of the district or for the issuance of an order stopping or disconnecting a service if the charges for that service are unpaid at the time specified in the ordinance.



(b) The district may enter upon the private property of any person within the jurisdiction of the district in order to investigate possible violations of an ordinance of the district. The investigation shall be made with the consent of the owner or tenant of the property or, if consent is refused, with a warrant duly issued pursuant to the procedures set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, except that, notwithstanding Section 1822.52 of the Code of Civil Procedure, the warrant shall be issued only upon probable cause.

(c) The district shall notify the county or city building inspector, county health inspector, or other affected county or city employee or office, in writing, within a reasonable time if an actual violation of a district, city, or county ordinance is discovered during the investigation.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1995

Governor

