

AMENDED IN ASSEMBLY APRIL 5, 2010
AMENDED IN ASSEMBLY MARCH 22, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Coto
(Coauthors: Assembly Members Beall, Caballero, Fong, and
Torrico)
(Coauthor: Senator Maldonado)

February 19, 2010

An act to repeal the Santa Clara Valley Water District Act (Chapter 1404 of the Statutes of 1951) and to add Division 50 (commencing with Section 100000) to the Water Code, relating to the Santa Clara Valley Water District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Coto. Santa Clara Valley Water District.

(1) The Santa Clara Valley Water District Act establishes the Santa Clara Valley Water District and specifies its powers and purposes relating to water supply and flood management. Under the act, a person who violates an ordinance of the district is guilty of a misdemeanor.

This bill would repeal that act and would enact a substantially revised codified version of that act as the Santa Clara Valley Water District Act (new act). The new act would establish the Santa Clara Valley Water District and specify its powers and purposes relating to integrated management of water supply, watershed stewardship, groundwater management, and flood management. This bill, by revising the responsibilities of the district, would impose a state-mandated local program. A person who violates a district ordinance that implements

the authority of the district, as revised, would be guilty of a misdemeanor. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Santa Clara Valley Water District.

(3) 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 specified reasons.

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. The Legislature finds and declares all of the
2 following:

3 (a) In 1951 the Legislature created what is now the Santa Clara
4 Valley Water District to meet the water supply needs of Santa
5 Clara County.

6 (b) Over the ensuing years the Santa Clara Valley Water District
7 Act has evolved as the district has merged with other entities and
8 has taken on additional missions, including flood protection and
9 watershed stewardship.

10 (c) The water resource challenges facing Santa Clara County
11 today require an integrated comprehensive water resources
12 management approach to adaptively manage through changing
13 conditions and an uncertain future.

14 (d) There is a need to revise the Santa Clara Valley Water
15 District Act to strengthen the district's ability to provide local
16 control of water resources within the county; to make the language
17 clear and accessible to the public and policy makers; to add
18 accountability and transparency; and both to reflect current
19 circumstances and to provide the flexibility necessary to address
20 future challenges.

21 SEC. 2. The Santa Clara Valley Water District Act (Chapter
22 1404 of the Statutes of 1951) is repealed.

23 SEC. 3. Division 50 (commencing with Section 100000) is
24 added to the Water Code, to read:

DIVISION 50. SPECIAL WATER DISTRICT ACTS

PART 1. SANTA CLARA VALLEY WATER DISTRICT ACT

CHAPTER 1. GENERAL PROVISIONS

100000. This part shall be known, and may be cited, as the Santa Clara Valley Water District Act.

100001. A special district is hereby created for water and resource management to be called the Santa Clara Valley Water District. The jurisdiction of the district consists of all the territory of the County of Santa Clara lying within the exterior boundaries of the county. As used in this part, “district” means the Santa Clara Valley Water District.

100002. (a) The Legislature finds and declares all of the following:

(1) The State of California and its people have a primary interest in securing to the inhabitants and owners of the lands and improvements within Santa Clara County the greatest possible use, conservation, management, and protection of the waters within the county for the common benefit of water users within the district.

(2) The Santa Clara Valley Water District has provided needed public services, facilities, and supplies to residents of Santa Clara County since its creation by the Legislature pursuant to Chapter 1405 of the Statutes of 1951, and to most efficiently and effectively use, conserve, manage, and protect the waters of Santa Clara County for the public good, the modifications made in the act adding this part are warranted.

(3) This part is intended to increase accountability and transparency, strengthen environmental commitments, improve water quality protection and sustainability, provide protection from floodwaters, and enhance water supply and water supply reliability.

(4) Comprehensive, integrated water resource management contributes to and enhances the well-being and the social, economic, and ecosystem sustainability of Santa Clara County.

(5) An integrated approach to providing effective flood protection measures, managing a sustainable water supply, preventing land subsidence, and supporting healthy watersheds is increasingly critical to provide for the community now and into the future.

(6) Collaboration with federal, state, regional, and local agencies, water retailers and the community is required to meet these water resource management goals.

(b) Through this part, the Legislature intends to authorize the district to utilize an integrated water management approach to provide a broad variety of benefits to Santa Clara County, including meeting existing and future water demands; protecting and improving the quality of water sources and supplies; providing flexibility to deal with extreme hydrological events, such as droughts and floods; adaptation to and mitigation in response to climate change; and watershed stewardship to help sustain natural resources.

(c) This part shall be liberally construed to carry out its purposes and intents.

CHAPTER 2. DEFINITIONS

100020. Unless the context otherwise requires, the definitions in this part govern the construction of this part.

100021. “Abandoned well” means any well that is one of the following:

(a) A well, other than a monitoring well, that has been out of service for one year or more.

(b) A monitoring well from which no measurement or sample has been taken for a period of three years.

(c) A well that is in a state of disrepair such that it cannot feasibly be made operational for its intended purpose.

(d) A test hole or exploratory boring 24 hours after construction and testing work has been completed.

(e) A cathodic protection well that is no longer functional for its intended purpose.

(f) Any boring that cannot be satisfactorily completed as a well.

100022. “Agricultural water” means water primarily used in the commercial production of agricultural crops or livestock.

100023. “Board of directors” or “board” means the board of directors of the district.

100024. “Chief executive officer” means the individual appointed by the board to manage the district, and may be designated as General Manager or CEO.

1 100025. “Conjunctive use” means the coordinated and planned
2 management of both surface water and groundwater resources to
3 optimize the availability, reliability, and quality of water supplies
4 and to meet other overall water resource management objectives.
5 Water is stored in a groundwater basin for later, planned use by
6 intentionally recharging the basin with imported and local water
7 supplies during periods of surplus water supply.

8 100026. “Contamination” means the degradation of surface
9 water or groundwater or the impairment of the beneficial uses of
10 such waters due to physical, chemical, biological, or radiological
11 substances.

12 100027. “County” means Santa Clara County.

13 100028. “Designated floodway” means the channel of a stream
14 and that portion of the adjoining floodplain required to reasonably
15 provide for the construction of a project for passage of the design
16 flood, including the lands necessary for construction of project
17 levees.

18 100029. “Director” means a member of the board of directors.

19 100030. “District” means the Santa Clara Valley Water District.

20 100031. “Extraction” means the act of obtaining groundwater
21 by pumping or other controlled means.

22 100032. “Fiscal year” means July 1 of one calendar year to
23 June 30 of the following calendar year.

24 100033. “Floodplain” means low lying areas bordering a stream
25 that are inundated periodically by its waters.

26 100034. “Groundwater” means all water beneath the earth’s
27 surface whether or not flowing through known and definite
28 channels.

29 100035. “Habitat” means the specific area or environment in
30 which a particular type of plant or animal lives. To be complete,
31 an organism’s habitat must provide all of the basic requirements
32 of life for that organism.

33 100036. “Integrated water management” means a holistic
34 approach to flood, water resource, and environmental activities.

35 100037. “Nonagricultural water” means water used for any
36 beneficial use other than agricultural use, including municipal,
37 industrial, landscape irrigation, and domestic uses.

38 ~~100038. “Owner” means the person or persons owning any~~
39 ~~water-producing facility or any interest therein other than a lien~~
40 ~~to secure the payment of a debt or other obligation.~~

1 10038. “Record owner” means, for purposes of compliance
2 with the notice required pursuant to Section 100125, an owner or
3 operator of a water-producing facility directly liable for paying
4 the groundwater management charges to the district, or the owner
5 of a parcel on which a water-producing facility is present, as
6 evidenced by the last equalized secured property tax assessment
7 tool.

8 10039. “Operator” means the person operating a
9 water-producing facility. The owner of such a facility shall be
10 conclusively presumed to be the operator unless satisfactory
11 showing is made to the district that the water-producing facility
12 actually is operated by some other person.

13 10040. “Person” includes federal, state, and local public
14 agencies, private corporations, partnerships, limited liability
15 companies, individuals, or groups of individuals, whether legally
16 organized or not.

17 10041. (a) “Production” or “producing” means the extraction
18 or extracting of groundwater, by pumping or any other method,
19 from shafts, tunnels, wells (including, but not limited to, abandoned
20 oil wells), excavations or other sources of groundwater, for
21 domestic, municipal, irrigation, industrial, or other beneficial use.

22 (b) “Production” or “producing” excludes any of the following:

23 (1) The extraction or extracting of groundwater incidentally
24 produced in the construction or reconstruction of a well.

25 (2) Water incidentally produced with oil or gas in the production
26 thereof.

27 (3) Water incidentally produced in a mining or excavating
28 operation.

29 (4) Water incidentally produced in the construction of a tunnel.

30 (5) Water produced as a result of dewatering activities to avoid
31 subsurface flooding.

32 (c) If the groundwater extracted in any one of the circumstances
33 listed in subdivision (b) is used or sold by the producer for any
34 domestic, municipal, irrigation, industrial, or other beneficial
35 purpose, the exclusion from the definition of “production” or
36 “producing” shall not apply.

37 10042. “Recycled water” means wastewater that is suitable
38 for beneficial use as a result of treatment.

1 100043. “Stewardship” means the careful and responsible
2 management of the environment and natural resources for the
3 current and future benefit of the greater community.

4 100043.5. “Surface water” means water above the natural
5 surface of the ground, including streams, lakes, and reservoirs.

6 100044. “Water conservation” means technological or
7 behavioral improvements in indoor and outdoor residential,
8 commercial, industrial, institutional, and agricultural water use
9 that lower demand, lower per capita water use, and result in benefits
10 to water supply, water quality, and the environment.

11 100045. “Water-producing facility” means any device or
12 method, mechanical or otherwise, for the production of water from
13 the groundwater supplies within the district or a zone of the district.

14 100046. “Water production statement” means the certified
15 statement that is submitted by the owner or operator of a
16 water-producing facility to the district that describes the production
17 of groundwater from that facility during a specified period.

18 100047. “Watershed” means a region or area bounded
19 peripherally by a divide and draining immediately to a particular
20 watercourse or body of water.

21 100048. “Well” means any artificial excavation constructed
22 by any method for the purpose of extracting water from, or
23 injecting water into, the underground; monitoring or observing
24 groundwater; obtaining subsurface data; or installing equipment
25 for electronically protecting metallic equipment (cathodic
26 protection).

27 100049. “Zone” or “zones” means an area within the district,
28 as determined by the board, that will benefit from planning, studies,
29 management programs, or projects undertaken by the district, in
30 a manner unique to that area.

31
32 CHAPTER 3. PURPOSES AND POWERS
33

34 100050. The purpose of this part is to authorize the district to
35 provide integrated comprehensive protection from flooding,
36 comprehensive water resource management for all beneficial uses,
37 and environmental water resources stewardship. In carrying out
38 its mission, the district may do any of the following:

39 (a) Protect the people, property, and environmental resources
40 of the county from the damaging effects of floodwater and

1 stormwater, including tidal floodwater and the floodwater and
2 stormwater of streams that have their sources outside the district,
3 but flow into the district.

4 (b) Manage and maintain a flood protection system of levees,
5 channels, drains, debris basins, dams, and other improvements to
6 protect lives and property.

7 (c) Provide the inhabitants of the county with a reliable supply
8 of water of suitable quality sufficient to meet current and long-term
9 needs.

10 (d) Protect, augment, and manage the quantity and quality of
11 the water supplies of the district.

12 (e) Prevent the waste or diminution of the water supply in the
13 district.

14 (f) Preserve open space in the county and collaborate with
15 county parks and other entities to provide access for trails, open
16 space, recreational use, or environmental protection on district
17 property.

18 (g) Protect against land subsidence.

19 (h) Plan for and respond to climate change impacts.

20 (i) Encourage the integration of energy and water policies to
21 increase renewable energy production, to promote water use
22 efficiency, and to reduce environmental impacts.

23 (j) Enhance, protect, or restore the health of streams, riparian
24 corridors, baylands ecosystems, natural resources, and habitats.

25 (k) Engage in cooperative regional or statewide efforts to carry
26 out its authority.

27 100051. The district is hereby declared to be a body corporate
28 and politic and has the powers expressly granted by this part,
29 together with other powers reasonably implied from those express
30 powers, and powers necessary or proper to carry out fully the
31 provisions of this part including:

32 (a) All of the following with regard to procedural matters:

33 (1) To have perpetual succession.

34 (2) To sue and be sued in the name of the district in all actions
35 and proceedings in all courts and tribunals of competent
36 jurisdiction.

37 (3) To adopt and make changes to a seal.

38 (4) To employ labor and contract for services consistent with
39 applicable Public Contract Code provisions.

1 (5) To enter into contracts and other instruments necessary or
2 convenient to the exercise of powers under this part.

3 (6) To have the power and right to disseminate information
4 concerning the rights, properties, activities, plans, and proposals
5 of the district.

6 (7) To adopt, enact, and enforce ordinances to carry out the
7 purposes and powers of this part.

8 (8) To adopt and carry out any definite plan or system for
9 accomplishing, facilitating, or financing any work that may
10 lawfully be accomplished by the district, and to enforce that plan
11 or system by resolution or ordinance.

12 (9) To cooperate with, enter into, and to do any acts necessary
13 for the proper performance of any agreement with the state, the
14 United States, any state, city, county, district of any kind, public
15 or private corporation, association, firm, or individual, for the
16 ownership, joint acquisition, leasing, disposition, use, management,
17 construction, installation, extension, maintenance, repair, or
18 operation of any rights, works, or other property of a kind that
19 might lawfully be acquired or owned by the district, or for the
20 lawful performance of any power or purpose of the district provided
21 for in this part.

22 (10) To carry on technical and other investigations of any kind
23 necessary or convenient for the accomplishment of water resource
24 management authorized by this part. Through inspection warrants,
25 the district has the right of access through its authorized
26 representatives to all properties within the district that impact or
27 relate to groundwater, watercourses, or streams flowing in or into
28 the district.

29 (b) All of the following with regard to acquisition of property,
30 eminent domain, and construction of work:

31 (1) To acquire by grant, purchase, lease, gift, devise, contract,
32 or otherwise; and to hold, use, enjoy, sell, let, or dispose of water,
33 water rights, real and personal property of every kind, including
34 lands, structures, buildings, rights-of-way, easements, and
35 privileges.

36 (2) ~~To~~ Upon payment of just compensation, to exercise the
37 power of eminent domain, either within or outside the district, in
38 connection with the purposes and activities authorized by this part.

1 (3) To divert any surface water or extract any groundwater, to
2 the detriment of a person with legal interest in that water, only
3 after the proper exercise of the power of eminent domain.

4 (4) To construct, maintain, alter, operate, repair, or remove any
5 work or improvement, within or outside the district, to carry out
6 any of the purposes of this part.

7 (5) To acquire, construct, maintain, operate, and install
8 landscaping or recreational facilities in connection with any dam,
9 reservoir, percolation pond, flood protection facility, building, or
10 other works owned or controlled by the district.

11 (6) To acquire, construct, maintain, and operate facilities for
12 the percolation of water.

13 (7) To acquire, construct, maintain, operate, and install, lease,
14 and control facilities for the generation, transmission, distribution,
15 sale, exchange, and lease of electric power.

16 (8) To participate in the market of credits or other benefits
17 related to reduction of environmental impacts or improved
18 integrated resource management.

19 (9) To enter upon any land to make photographs, studies,
20 surveys, examinations, or appraisals related to acquisition or use
21 of real property, and to locate the necessary works of improvement
22 and the lines for channels, conduits, canals, pipelines, wells,
23 water-producing facilities, roadways, and other rights-of-way.

24 (10) To acquire and to hold the capital stock of any mutual water
25 company or corporation, domestic or foreign, owning water or
26 water rights, canals, waterworks, franchises, concessions, or rights,
27 when the ownership of stock is necessary to secure a water supply
28 required by the district, or any part thereof, upon the condition that
29 when holding stock, the district is entitled to all the rights, powers,
30 and privileges, and is subject to all the obligations and liabilities
31 conferred or imposed by law upon other holders of stock in the
32 same company.

33 (11) To cooperate with, enter into, and to do any acts necessary
34 for the proper performance of any agreement with the state, the
35 United States, any state, city, county, district of any kind, public
36 or private corporation, association, firm, or individual, for the
37 ownership, joint acquisition, leasing, disposition, use, management,
38 construction, installation, extension, maintenance, repair, or
39 operation of any rights, works, or other property of a kind that
40 might lawfully be acquired or owned by the district, or for the

1 lawful performance of any power or purpose of the district provided
2 for in this part.

3 (c) All of the following powers with regard to acquisition,
4 storage, treatment, and distribution of water:

5 (1) To appropriate and acquire water and water rights, and to
6 import water into the district.

7 (2) To purchase, convey, store, distribute, exchange, or sell
8 water from any source for purposes of managing the water supplies
9 of the district.

10 (3) To store water in surface or underground reservoirs within
11 or outside the district for the common benefit of the district or of
12 any zones.

13 (4) To manage and replenish the groundwater basins within the
14 district.

15 (5) To take actions, including imposing restrictions or requiring
16 inspections, to prevent damage to water supply structures or water
17 quality from any cause, including, but not limited to, invasive
18 species, harmful organisms, or harmful substances.

19 (6) To conserve, treat, extract, inject, reclaim, recycle, distribute,
20 store, protect, and manage water for present and future use within
21 the district.

22 (7) To take actions in order that sufficient water of suitable
23 quality is available within the district to meet current and long-term
24 water reliability needs, as well as short-term demands during
25 critically dry periods, regulatory shortages, emergencies, or other
26 interruptions in normal supply for all beneficial water uses.

27 (8) To distribute, sell, or otherwise dispose of, outside the
28 district, any water not needed for beneficial uses within the district.

29 (9) To take any action necessary or appropriate to litigate or
30 resolve water rights, water quality, or water use issues, within or
31 outside the district, including, but not limited to, enforcement
32 actions to prevent the wasteful use of water, harm to water, or to
33 natural resources within the district.

34 (10) To enact regulations affirmatively managing the watersheds
35 within the district, to protect the paramount right of the district to
36 manage the water supplies of the district for the benefit of its
37 inhabitants, including regulation of existing and proposed wells,
38 exportation and pricing of water from the district, or from a zone.

39 (d) All of the following powers with regard to protection from
40 flooding:

1 (1) To manage the flood and stormwaters of the district,
2 including tidal floodwaters, and the flood and stormwaters of
3 streams that have sources outside of the district, but that flow into
4 the district, and to conserve the waters for beneficial purposes.

5 (2) To protect the watercourses, watersheds, public highways,
6 health, safety, and property in the district, and streams flowing
7 into the district, from damage caused by those flood or stormwaters.

8 (3) To establish designated floodways in accordance with the
9 Cobey-Alquist Flood Plain Management Act (Chapter 4
10 (commencing with Section 8400) of Part 2 of Division 5).

11 (4) To construct, manage, and maintain all district flood
12 protection facilities, including levees, modified channels, bypasses,
13 culverts, floodwalls, detention basins, diversion structures, all
14 appurtenances and other structures, as well as to utilize
15 nonstructural methods, for the purpose of containing or conveying
16 floodwaters in accordance with this part.

17 (5) To enact regulations to protect flood protection facilities
18 from activities that could endanger the public health and safety,
19 or that diminish their ability to achieve their purpose.

20 (e) All of the following powers with regard to protection of
21 water quality:

22 (1) To conduct investigations of the quality of surface water or
23 groundwater within the district to determine if water is being
24 degraded, contaminated, or polluted.

25 (2) To expend funds to perform any cleanup, containment,
26 abatement, prevention, remedial work, public notification, or
27 educational public outreach which, in the determination of the
28 board, is required under regulatory authority of any state or federal
29 agency or by the magnitude of the endeavor, or the urgent need
30 for prompt action to prevent, abate, or contain any threatened or
31 existing contamination of or pollution to the surface water or
32 groundwater of the district. This action may be taken in addition
33 to work by the contaminator or polluter, or if the contaminator or
34 polluter fails to take action. The district may perform the work,
35 itself, by contract, or in cooperation with any other governmental
36 entity.

37 (3) To hold the contaminator or polluter liable for costs if,
38 pursuant to paragraph (2), the district causes contamination or
39 pollution to be cleaned up or contained, the effects abated, or other
40 necessary remedial action is taken to address actual or threatened

1 contamination or pollution. The person or entity causing or
2 threatening to cause that contamination or pollution is liable to the
3 district to the extent of the reasonable costs actually incurred,
4 including direct staff response costs and overhead. The amount of
5 the costs, together with court costs and reasonable attorney's fees
6 are recoverable in a civil action by the district or other means. In
7 such an action, the necessity for the cleanup, containment,
8 abatement, remedial work, public notification, or educational public
9 outreach and the reasonableness of the costs shall be presumed,
10 and the defendant shall have the burden of proving, that the work
11 was not necessary, or the costs not reasonable.

12 (4) To enact ordinances to protect against any water
13 contamination hazards or potential water quality degradation, or
14 other circumstances endangering the public health and safety or
15 that render water unfit for beneficial use.

16 (5) To prevent unacceptable land surface subsidence or to
17 improve or protect the quantity or quality of groundwater supplies
18 within the groundwater basins or a subarea of the basin, by
19 requiring registration of all wells and controlling groundwater
20 extractions from the area by regulating, limiting, or suspending
21 extractions from wells, the construction of new wells, the enlarging
22 or modification of existing wells, and the reactivation of wells.

23 (6) To require the sealing of abandoned or unused wells
24 according to ordinance and to require the county or any
25 incorporated city in the county to require all persons applying for
26 any land development permit or approval to show on a map
27 attached to the application the existence and location of any well
28 on the property. If a well is shown, the map shall be referred by
29 the county to the district for review and action prior to approval
30 of the application.

31 (7) To take any action necessary or appropriate to litigate or
32 resolve any action or proceeding to prevent public nuisance
33 interference with, diminution or degradation of, or to declare rights
34 in the natural flow of, any stream or surface or subterranean supply
35 of water used or useful for any purpose of the district.

36 (f) All of the following powers with regard to water resources
37 stewardship:

38 (1) To provide for the protection, enhancement, and restoration
39 of watercourses, watersheds, wetlands, riparian functions, habitat,

1 and natural resources in connection with carrying out the purposes
2 set forth in this part.

3 (2) To prevent contamination, pollution or otherwise rendering
4 unfit for beneficial use the surface or subsurface water used or
5 useful in the district.

6 (3) To provide information, resources, and consultation to the
7 agencies responsible for land-use decisions or actions that may
8 affect the health, stability, or function of watercourses, watersheds,
9 groundwater basins, riparian functions, habitat, and natural
10 resources within the district.

11 (4) To collaborate with other entities to provide access for trails,
12 open space, recreational use, or environmental protection on district
13 property.

14 (5) To implement environmental enhancement activities and
15 mitigation and monitoring of natural resources.

16 (6) To enact regulations to protect water resources stewardship
17 facilities from activities that could diminish their ability to achieve
18 their purpose.

19 (g) All of the following financial powers:

20 (1) To establish and collect rates and charges for the purpose
21 of paying any obligation of the district, and to carry out any of the
22 purposes of this part.

23 (2) To prescribe, revise, and collect property-related fees and
24 charges for facilities, including, but not limited to, flood protection,
25 stormwater management, storm drainage, mitigation banks,
26 restoration, enhancement, protection, or preservation of habitats,
27 furnished or to be furnished to any new building, improvement,
28 or structure constructed or to be constructed in a zone of the
29 district.

30 (3) If a drainage or flood control problem is referred to the
31 district by the County of Santa Clara, or any incorporated city in
32 the county, as authorized by the Subdivision Map Act (Division
33 2 (commencing with Section 66410) of Title 7 of the Government
34 Code) or otherwise, to require the installation of drainage or flood
35 control improvements necessary or convenient for needs of the
36 zone, including, but not limited to, residential, subdivision,
37 commercial, and industrial drainage and flood control needs.
38 Revenues derived under this section shall be used for the following:

1 (A) The acquisition, construction, reconstruction, maintenance,
2 and operation of the flood control or storm drainage facilities of
3 the zone.

4 (B) To reduce the principal or interest of any bonded
5 indebtedness thereof.

6 (C) To replace funds expended on behalf of that zone.

7 (4) To incur indebtedness, and to issue bonds.

8 (5) To cause taxes or assessments to be imposed and collected
9 for the purpose of paying any obligation of the district, and to carry
10 out any of the purposes of this part.

11 (6) To impose groundwater management charges to cover the
12 cost of groundwater management activities, including conjunctive
13 use, for the production of water from the groundwater supplies
14 within a zone of the district that benefits from recharge of
15 groundwater supplies, from the availability or distribution of
16 imported water, or from the extraction of groundwater from all
17 water extraction facilities within the district.

18 (7) To receive grants and other sources of funding.

19 (8) To pay to any city, public agency, district, or private
20 postsecondary educational institution, a portion of the cost of water
21 imported by that city, public agency, district, or educational
22 institution into, for use within, and of benefit to, the district.

23 100052. The district shall not intervene or take part in, or pay
24 the costs or expenses of, private actions or controversies between
25 the owners of lands or water rights that do not affect the interests
26 of the district.

27
28 CHAPTER 4. BOARD OF DIRECTORS AND GOVERNANCE
29

30 100060. The board of directors shall consist of seven members,
31 one elected from each of seven electoral districts. The term of
32 office of a director shall be four years beginning at noon on the
33 first Friday in December following his or her election. A director
34 shall hold office until a successor is elected or appointed and
35 qualified.

36 100061. (a) On or before June 30, 2010, the board shall adopt
37 a resolution that divides the district into seven electoral districts
38 and that assigns a number to each district.

39 (b) Using the most recent census data as a basis, the electoral
40 districts shall be as nearly equal in population as possible.

1 (c) In establishing the boundaries of the electoral districts, the
2 board may give consideration to the topography, geography,
3 cohesiveness, contiguity, integrity, compactness of territory, and
4 the community of interests of the electoral districts.

5 (d) The board shall review the boundaries of the seven electoral
6 districts before November 1 of the year following the year in which
7 each decennial census is taken. The board shall adjust the
8 boundaries if determined to be necessary in accordance with
9 Section 22000 of the Elections Code.

10 100061.5. (a) The first elections for the first, fourth, sixth, and
11 seventh electoral districts established pursuant to Section 100061
12 shall be conducted at the November 2, 2010, statewide general
13 election. The first elections for the second, third, and fifth electoral
14 districts established pursuant to Section 100061 shall be conducted
15 at the November 6, 2012, statewide general election.

16 (b) Elections for the electoral districts established pursuant to
17 Section 100061 shall be conducted in accordance with the Uniform
18 District Election Law (Part 4 (commencing with Section 10500)
19 of Division 10 of the Elections Code).

20 (c) (1) One director shall be elected in accordance with this
21 section by the voters of each electoral district.

22 (2) A candidate for the board of directors shall be a resident,
23 and a qualified elector, in the electoral district for which he or she
24 is a candidate.

25 (3) A director shall continue to reside within the electoral district
26 during his or her term of office, except that no change in boundaries
27 of an electoral district shall affect the term of office of any
28 incumbent director.

29 (d) The directors elected pursuant to this section shall exercise
30 their independent judgment on behalf of the interests of the entire
31 district, including the residents, property owners, and the public
32 as a whole in furthering the purposes and intent of this part.

33 (e) Except as otherwise provided in this part, the individuals
34 who serve on the board of directors on December 31, 2010, in
35 accordance with the Santa Clara Valley Water District Act (Chapter
36 1405 of the Statutes of 1951, as amended) shall continue to serve
37 on the board established by this part. Accordingly, directors from
38 the second, third, and fifth supervisorial districts elected in 2008
39 serve until noon on December 7, 2012, after the first elections for
40 those seats are held.

1 100062. In order to encourage greater participation in the
2 political process, the board has discretion to uniformly authorize
3 partial or full payment of fees associated with candidate ballot
4 statements.

5 100063. Any vacancy in the office of a director shall be filled
6 pursuant to Section 1780 of the Government Code. Any director
7 appointed to fill a vacancy in the office of a director shall be a
8 qualified elector in the electoral district he or she will represent.

9 100063.5. (a) While serving as a member of the board of
10 directors, and for one year immediately following the end of the
11 director's term of office, no director shall seek or accept
12 compensated employment with the district.

13 (b) The board, by ordinance, shall adopt regulations governing
14 the activities of persons who lobby the district. Those regulations
15 shall include provisions requiring registration of lobbyists,
16 reporting requirements governing the activities of lobbyists and
17 communications with board members, and disclosure by directors
18 of contact with lobbyists prior to voting on matters related to the
19 contact. This ordinance shall be adopted no later than July 1, 2010.

20 (c) (1) No director shall contact staff on behalf of a party who
21 is bidding, or intends to bid, on a district contract or who has, or
22 intends, to submit a response to a request for proposals or request
23 for qualifications, nor shall a director inquire about the identity of
24 bidders or proposers prior to the time that staff has made a
25 recommendation for selection of a contractor, vendor, or consultant.

26 (2) Paragraph (1) does not prohibit a director from making
27 general inquiries about the status of a particular procurement, or
28 from providing a member of the public with information about the
29 appropriate staff contact concerning procurement of goods and
30 services by the district.

31 (d) The board shall not authorize severance pay for a
32 board-appointed employee of the district when the employee
33 voluntarily separates from district employment. For purposes of
34 this subdivision, "severance pay" does not include any otherwise
35 lawful payment required to be paid by the district under a
36 preexisting employment agreement or under a separation and
37 release agreement resolving a claim or claims made or threatened
38 to be made against the district. The board shall not agree to amend
39 an employment contract after the employee announces or requests
40 a voluntary separation, except upon a board determination, in open

1 session, that an adjustment in compensation is required to retain
2 the employee and is in the best interest of the district.

3 100064. Each year at a regular board meeting in January, the
4 board shall select a chairperson and vice chairperson from its
5 members to serve for a year term.

6 100065. (a) All meetings of the board shall be called and held
7 in accordance with the Ralph M. Brown Act (Chapter 9
8 (commencing with Section 54950) of Part 1 of Division 2 of Title
9 5 of the Government Code).

10 (b) A public report made pursuant to Section 54957.1 of the
11 Government Code of actions taken in closed session shall be
12 reflected in the minutes of the board meeting at which the report
13 was made.

14 100065.5. (a) (1) Except as provided in paragraph (2), reports
15 prepared by district staff for the board that recommend action on
16 any item to be considered at a regular public meeting of the board,
17 or at a public hearing conducted by the board, shall be made
18 available to the public no later than six days prior to the date of
19 that meeting or hearing.

20 (2) Notwithstanding paragraph (1), the following reports shall
21 be made available to the public within the time period required by
22 the Ralph M. Brown Act (Chapter 9 (commencing with Section
23 54950) of Part 1 of Division 2 of Title 5 of the Government Code):

24 (A) Reports relating to a contract award, if the contract has been
25 considered at a prior board meeting.

26 (B) Reports recommending board action necessary to meet a
27 legal deadline, including a deadline for a grant funding application.

28 (C) Reports conveying a recommendation from a board
29 committee.

30 (D) Reports recommending immediate board action to address
31 urgent health, safety, or financial matters identified in the report.

32 (E) Supplemental reports conveying additional information
33 received after the initial report was released.

34 (3) If a recommendation in a staff report is revised based upon
35 direction from a member of the board, the revision shall be
36 disclosed in the applicable report.

37 (4) This subdivision does not require the public release of any
38 document that is exempt from disclosure pursuant to the California
39 Public Records Act (Chapter 3.5 (commencing with Section 6250))

1 of Division 7 of Title 1 of the Government Code) or any other
2 provision of law.

3 100066. (a) The board, in accordance with Chapter 2
4 (commencing with Section 20200) of Division 10, may authorize
5 each director to receive compensation for attendance at meetings
6 of the board and committees and for other service rendered as a
7 director. A director shall not receive total compensation, including
8 stipends, expenses, or benefits, in excess of the amount allowed
9 by law. Reimbursement for expenses incurred by directors is
10 subject to Sections 53232.2 and 53232.3 of the Government Code.

11 (b) On a quarterly basis, a report of the expense reimbursements
12 to each director shall be placed on an open session board meeting
13 agenda for review and a determination by the board regarding
14 whether the expense reimbursements comply with the board's
15 reimbursement policies adopted pursuant to Section 53232.3 of
16 the Government Code. Only expenses in compliance with those
17 policies ~~shall~~ may be reimbursed by the district.

18 100067. The board, by resolution, may establish or eliminate
19 advisory boards, committees, or commissions as in its judgment
20 will serve the best interests of the district. At least one such
21 advisory body shall include representation by users of agricultural
22 water. The board may assign duties consistent with this part. The
23 composition of an advisory board, committee, or commission shall
24 be specified in the creating resolution, and each board, committee,
25 or commission is required to have at least three members. Members
26 serve at the pleasure of the board.

27 100068. A member of the board may be recalled by the voters
28 pursuant to Chapter 1 (commencing with Section 11000) of
29 Division 11 of the Elections Code.

30 100069. The board of directors shall serve as the governing
31 body of the district. The board may take action by motion,
32 resolution, or ordinance. Unless otherwise provided in this part,
33 the affirmative vote of a majority of the board is required to pass
34 a motion, resolution, or ordinance.

35 100070. A motion is adopted when carried by the required
36 majority vote.

37 100071. If more formality than a motion is required or desired
38 to authorize board action, a resolution recorded in the minutes of
39 the meeting may be adopted. A resolution is adopted when carried
40 by the required majority on a rollcall vote.

1 100072. (a) For those matters of significant legislative
2 importance that require both formality and the need to obtain input
3 from the public, the board is authorized to take action through
4 adoption of an ordinance. An ordinance is subject to referendum
5 by the electorate.

6 (b) A public hearing, noticed pursuant to Section 6066 of the
7 Government Code, is a prerequisite to adoption of an ordinance.
8 To be valid, an ordinance shall be enacted by a majority on a
9 rollcall vote documented in the minutes of the board meeting. If
10 publication is required under state law, only the title *and summary*
11 of the ordinance shall be published. An ordinance shall be in full
12 force and effect 30 days after adoption, or at a later time specified
13 in the ordinance.

14 (c) It is a misdemeanor for any person to violate any district
15 ordinance adopted pursuant to this section from and after the
16 effective date of the ordinance. The violation is punishable by a
17 fine not to exceed five hundred dollars (\$500), or imprisonment
18 in the county jail not to exceed 30 days, or both the fine and
19 imprisonment.

20 (d) Any violation or threatened violation of a district ordinance
21 may also be enjoined by civil action.

22 100073. Prior to adoption of a regulation, the board shall make
23 a finding that the public necessity requires the action, and the
24 resolution or ordinance enacted shall state the ultimate facts upon
25 which the finding is based.

26 100074. (a) The board may appoint and employ any officers
27 and positions as desired and prescribe their duties and set their
28 compensation.

29 (b) The board appointees shall hire the additional employees
30 deemed necessary to perform acts necessary or proper to
31 accomplish the purposes of this part.

32 (c) Officers and employees shall be employed, suspended, or
33 their employment terminated in accordance with written rules,
34 regulations, standards, and procedures for appointment, suspension,
35 and termination of employment.

36 100075. At the option of the board, employees appointed by
37 the board may be required to execute public official bonds before
38 entering upon the duties of their employment. The district board
39 may opt for the district to pay for the bonds.

100076. Except as otherwise provided by this part or other applicable law, Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code govern claims for money or damages against the district.

100077. In order to determine the legality of the district's existence, or of any contract entered into by the district, the district may institute a proceeding in the superior court of this state, pursuant to Section 860 of the Code of Civil Procedure. The State of California shall be a required defendant in the action, and consent to be named a defendant is given.

CHAPTER 5. ZONES

100080. (a) The board, by resolution, may at any time establish one or more separate or overlapping zones within the district without reference to the boundaries of other zones. A zone may be created by the board upon a determination that it is in the public interest to provide specific water resource management, flood control or watershed stewardship services, or levels of service, construct or improve facilities, or raise revenues, within a defined area of the district.

(b) The district may provide any service or level of service, or construct or improve any facility within a zone, that the district is authorized to undertake in the district as a whole. The district may exercise any fiscal power within a zone that the district is authorized to exercise in the district as a whole. Prior to the imposition of any management charge, the board shall establish the zones within which the management charge will be effective.

(c) (1) To initiate proceedings for the formation of a new zone, the board shall adopt a resolution that does all of the following:

(A) States that the proposal is made pursuant to this section.

(B) Sets forth a description of the boundaries of the territory to be included in the zone.

(C) Describes the reasons for forming the zone.

(D) Identifies the services or levels of service to be provided, facilities to be constructed or improved, or revenues to be raised, within the zone.

(E) Describes the methods by which those services or levels of service, or facilities, will be financed.

1 (F) Proposes a name or number for the zone.

2 (2) The formation of a zone may also be initiated by the
3 submission of a petition signed by not less than 10 percent of the
4 registered voters residing within the proposed zone. The petition
5 shall contain all of the information described in subdivision (c).

6 (3) Upon the adoption of a resolution or the receipt of a petition
7 pursuant to paragraph (2), the board shall fix the date, time, and
8 place for the public hearing on the formation of the zone. The
9 district shall publish notice of the hearing, including the
10 information described in paragraph (1), pursuant to Section 6061
11 of the Government Code. The district shall mail the notice at least
12 20 days before the date of the hearing to all owners of property
13 within the proposed zone. The district shall post the notice in at
14 least three public places within the territory of the proposed zone.

15 (4) At the hearing described in paragraphs (1) to (3) inclusive,
16 the board shall hear and consider any protests to the formation of
17 the zone. If, at the conclusion of the hearing, the board determines
18 either that more than 50 percent of the total number of voters
19 residing within the proposed zone have filed written objections to
20 the formation, or that property owners who own more than 50
21 percent of the assessed value of all taxable property in the proposed
22 zone have filed written objections to the formation, the board shall
23 terminate the proceedings. If the board determines that the written
24 objections have been filed by 50 percent or less of those voters or
25 property owners who own 50 percent or less than the assessed
26 value of all taxable property in the proposed zone, the board may
27 proceed to form the zone.

28 (5) If the resolution or petition proposes that work within the
29 zone is to be financed by special taxes, benefit assessments, fees,
30 standby charges, bonds, or notes, the board shall proceed according
31 to law. If the voters or property owners do not approve those
32 funding methods, the zone shall remain formed, but alternative
33 financing shall be obtained.

34 (d) The board may change the boundaries of a zone or dissolve
35 a zone by following the procedures for the formation of a zone.

36 (e) A local agency formation commission shall not review,
37 approve, or disapprove a proposal to form a zone, a proposal to
38 change the boundaries of a zone, or a proposal to dissolve a zone.

39 (f) Proceedings for the establishment of a new zone or for an
40 amendment to existing zones may be conducted concurrently with,

1 and as a part of the institution of, projects providing service to the
2 zones to be created.

3
4 CHAPTER 6. FINANCIAL MATTERS
5

6 100090. The district shall adopt a system of accounting and
7 auditing that shall completely and at all times show the district's
8 financial condition. The system of accounting and auditing shall
9 adhere to generally accepted accounting principles and auditing
10 standards. The chief financial officer shall make, at a minimum,
11 quarterly written reports to the board regarding the receipts and
12 disbursements and balances in the accounts controlled by the
13 district.

14 100091. (a) On or before June 15 of each year, the board shall
15 meet, at the time and place designated by published notice, at
16 which meeting any member of the general public may appear and
17 be heard regarding any item in the proposed budget or for the
18 inclusion of additional items.

19 (b) At the same time and place designated in the public notice,
20 the board shall review its financial reserves, including the
21 justification therefor, and its reserve management policy.

22 (c) After the conclusion of the meeting, and not later than June
23 30 of each year, and after making any revisions of, deductions
24 from, or increases or additions to, the proposed budget that the
25 board determines advisable during or after the meeting, the board,
26 by resolution, shall adopt the budget as finally determined.

27 100092. (a) In its budget, the board of directors may establish
28 a designated reserve for capital outlay and a designated reserve
29 for contingencies. If the board of directors establishes a designated
30 reserve, it shall declare the exclusive purposes for which the funds
31 in the reserve may be spent. The funds in the designated reserve
32 shall be spent only for the exclusive purposes for which the board
33 of directors established the designated reserve. The reserves shall
34 be maintained according to generally accepted accounting
35 principles. The reserves shall be kept in an interest bearing account.

36 (b) After the establishment of a designated reserve, the board
37 of directors may transfer any funds to that designated reserve.

38 (c) If the board of directors finds that the funds in a designated
39 reserve are no longer required for the exclusive purposes for which
40 it was established, the board of directors, by a four-fifths vote of

1 the total membership of the board of directors, may discontinue
2 the designated reserve or transfer any funds that are no longer
3 required from the designated reserve to the district's general fund.

4 (d) Notwithstanding any other provision of this section, in a
5 state of emergency or in a local emergency, a board of directors
6 may temporarily transfer funds from a designated reserve for capital
7 outlay or a designated reserve for contingencies to the district's
8 general fund. The board of directors shall restore these funds to
9 the designated reserves as soon as feasible.

10 100093. (a) At any regular meeting or properly noticed special
11 meeting after the adoption of its final budget, the board of directors
12 may adopt a resolution amending the budget and ordering the
13 transfer of funds between categories with delegated fund limits.

14 (b) The board of directors may authorize the chief executive
15 officer to transfer funds between budget categories with delegated
16 fund limits.

17 (c) Only the board of directors may transfer funds from a
18 designated reserve for capital outlay or a designated reserve for
19 contingencies.

20 100094. If the board determines that the amount of revenue
21 available to the district or any of its zones is inadequate to acquire,
22 construct, improve, rehabilitate, manage, or replace the facilities
23 authorized by this part, or to meet the costs of providing the
24 services or administering the programs authorized by this part, or
25 for funding or refunding any outstanding indebtedness, the board
26 may incur debt and raise revenues pursuant to this part.

27 100095. (a) The district may charge a fee to cover the cost of
28 any service that the district provides, or the cost of enforcing any
29 regulation for which the fee is charged. A fee shall not exceed the
30 costs reasonably borne by the district in providing the service or
31 enforcing the regulation for which the fee is charged.

32 (b) The district may charge residents or taxpayers of the district
33 a fee authorized by this section that is less than the fee that it
34 charges nonresidents or nontaxpayers.

35 (c) The board, by resolution, may adopt policies and procedures
36 governing the partial or full waiver of any fees charged pursuant
37 to this section if it is determined that imposition of the fee in a
38 particular situation would not be in the public interest.

1 100096. Prior to imposing or increasing any fee for
2 property-related services, the district shall comply with the
3 requirements of Article XIII D of the California Constitution.

4 ~~100097. The district may impose standby charges for water~~
5 ~~pursuant to the Uniform Standby Charge Procedures Act (Chapter~~
6 ~~12.4 (commencing with Section 54984) of Part 1 of Division 2 of~~
7 ~~Title 5 of the Government Code).~~

8 ~~100098. (a)~~

9 100097. The district may expend its share of property tax
10 revenue allocated pursuant to subdivision (b) of Section 93 of the
11 Revenue and Taxation Code to pay for both of the following:

12 (1)

13 (a) The general administrative costs and expenses, including
14 maintenance and operation of established works of the district, to
15 carry out any of the objects or purposes of this part of common
16 benefit to the district.

17 (2)

18 (b) The costs and expenses of constructing or extending any or
19 all works established within or on behalf of a zone or participating
20 zones within the district if revenue used for that purpose is
21 replaced.

22 ~~(b) California voter approval having been obtained in 1960 for~~
23 ~~the State Water Project (SWP) and the obligations created by the~~
24 ~~SWP contracts, the district may levy an ad valorem property tax~~
25 ~~pursuant to subdivision (b) of paragraph (1) of Section 1 of Article~~
26 ~~XIII A of the California Constitution in order to cover payment of~~
27 ~~indebtedness for required SWP contract payments, including for~~
28 ~~repayment of bonded indebtedness, and maintaining, operating,~~
29 ~~expanding, or replacing the system. This tax may be increased~~
30 ~~upon the board's exercise of discretion and finding that: (1)~~
31 ~~revenues from water sales and other sources cannot reasonably be~~
32 ~~used to cover all of the needs of the district, including SWP~~
33 ~~contract obligations, and (2) that an ad valorem property tax is~~
34 ~~reasonably necessary to meet the district's SWP contract~~
35 ~~obligations.~~

36 ~~100099.~~

37 100098. The district may impose benefit assessments to pay
38 the cost of carrying out any of the objects or purposes of this part
39 on behalf of a zone or zones, including constructing, maintaining,
40 managing, operating, extending, maintaining, repairing or otherwise

1 improving any work of improvement, implementing programs or
2 projects, or financing any of the foregoing, consistent with Article
3 XIII D of the California Constitution. These benefit assessments
4 include, but are not limited to, benefit assessments imposed
5 pursuant to any of the following:

6 (a) The Improvement Act of 1911 (Division 7 (commencing
7 with Section 5000) of the Streets and Highways Code).

8 (b) The Improvement Bond Act of 1915 (Division 10
9 (commencing with Section 8500) of the Streets and Highways
10 Code).

11 (c) The Municipal Improvement Act of 1913 (Division 12
12 (commencing with Section 10000) of the Streets and Highways
13 Code).

14 (d) The Landscaping and Lighting Assessment Act of 1972
15 (Part 2 (commencing with Section 22500) of Division 15 of the
16 Streets and Highways Code).

17 ~~100100.~~

18 100099. The district may impose special taxes, consistent with
19 Article XIII C of the California Constitution, pursuant to the
20 following:

21 (a) Article 3.5 (commencing with Section 50075) of Chapter 1
22 of Part 1 of Division 1 of Title 5 of the Government Code. The
23 special taxes shall be applied uniformly to all taxpayers or all real
24 property within the district, except that unimproved property may
25 be taxed at a lower rate than improved property. The district may
26 provide an exemption from these taxes for residential parcels
27 owned and occupied by one or more taxpayers who are at least 65
28 years of age, or who qualify as totally disabled under the federal
29 Social Security Act, if the total household income is less than an
30 amount that is approved by the voters of the district.

31 (b) The Mello-Roos Community Facilities Act of 1982 (Chapter
32 2.5 (commencing with Section 53311) of Part 1 of Division 2 of
33 Title 5 of the Government Code).

34 ~~100101.~~

35 100100. If the board of directors determines that the amount
36 of revenue available to the district or any of its zones is inadequate
37 to acquire, construct, improve, rehabilitate, or replace the facilities
38 authorized by this division, or for funding or refunding any
39 outstanding indebtedness, the board of directors may incur debt
40 pursuant to this chapter or any other applicable provision of law.

1 ~~100102.~~

2 100101. (a) The district may issue promissory notes to borrow
3 money and incur indebtedness for the purposes of this part,
4 including, but not limited to, the payment of current expenses,
5 pursuant to this section.

6 (b) Any indebtedness incurred pursuant to this section shall bear
7 interest at a rate that shall not exceed the rate permitted under
8 Article 7 (commencing with Section 53530) of Chapter 3 of Part
9 1 of Division 2 of Title 5 of the Government Code.

10 (c) Each indebtedness incurred pursuant to this section shall be
11 authorized by resolution adopted by a four-fifths vote of the board
12 and evidenced by a promissory note signed by both the chairperson
13 of the board and the district's chief executive officer.

14 ~~100103.~~

15 100102. (a) The district may borrow money and incur
16 short-term indebtedness, not to exceed the limitations established
17 in subdivision (d) by action of the board of directors without the
18 necessity of calling and holding an election.

19 (b) Indebtedness may be incurred pursuant to this section for
20 any purpose for which the district is authorized to expend funds.

21 (c) Indebtedness incurred under this section shall be evidenced
22 by short-term notes payable at stated times fixed by the board. The
23 short-term notes shall mature no later than five years from the date
24 of issuance. Interest on short-term notes shall not exceed the limits
25 established under state law. Short-term notes are general
26 obligations of the district payable from revenues, charges, taxes,
27 and assessments.

28 (d) Short-term notes shall not to be issued if in any fiscal year
29 the amount payable, when added to the interest thereon, exceeds
30 85 percent of the estimated amount of the revenues, charges, taxes,
31 and assessments of the district that will be available in that fiscal
32 year for payment of short-term notes and the interest thereon.

33 ~~100104.~~

34 100103. (a) If the board determines that it is necessary to incur
35 a general obligation bond indebtedness for the acquisition or
36 improvement of real property, the board may proceed pursuant to
37 Article 11 (commencing with Section 5790) of Chapter 4 of
38 Division 5 of the Public Resources Code.

39 (b) If the board determines that a bonded indebtedness should
40 be incurred to pay the cost of any project in any zone or zones, the

board, by resolution, may determine and declare the respective amounts of bonds to be issued to raise the amount of money necessary for each project and the denomination and the maximum rate of interest of the bonds. In determining each amount of bonds and the amount of money necessary for each project, the board may include in its determination all of the following:

(1) The portion, if any, of the cost of the project already advanced by the district for which the district proposes to reimburse itself from the proceeds of sale of the bonds.

(2) The cost of lands, rights-of-way, easements, and property proposed to be taken, acquired, or injured in carrying out the project.

(3) All incidental expenses likely to be incurred, including legal, clerical, engineering, superintendence, inspection, printing, and advertising.

(4) If deemed advisable, an amount sufficient to pay interest on any bonds proposed to be issued during all or any part of the period of construction of the project and for a period not to exceed 12 months thereafter. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the office of the county recorder within five days after its issuance. After the filing of the resolution, the board may proceed with the bond election.

(c) Upon authorization, the board may call a special bond election in the zone or zones participating submitting the question whether or not bonds can be issued in the amount determined in the resolution for the purpose stated. The bonds and the interest thereon shall be paid from revenue derived from annual taxes, rates, or assessments imposed in accordance with this part.

(d) The board shall call the special bond election by ordinance and not otherwise. The ordinance shall include all of the following:

(1) A brief, general description of the objects and purposes, and a reference to the recorded copy of the resolution adopted by the board.

(2) The estimated cost of the proposed project, the amount of the principal of the indebtedness to be incurred, and the maximum rate of interest to be paid on the indebtedness. The rate of interest to be paid on the indebtedness shall not exceed the limits provided under state law.

(3) The date on which the special election will be held.

1 (4) The form and contents of the ballot to be used.

2 (5) The establishment of special bond election precincts within
3 the boundaries of each zone.

4 (6) The designation of a polling place and appointment of one
5 inspector, one judge, and one clerk for each special bond election
6 precinct.

7 (e) The general election laws of the state govern the election,
8 except as otherwise provided in this part and set forth in the
9 ordinance.

10 (f) The board shall cause a map or maps to be prepared that
11 includes a general description of the project, and that identifies
12 the location of the proposed projects. The map shall be posted on
13 the district Internet Web site and in a prominent place at the district
14 office for public inspection for at least 30 days before the date
15 fixed for the election.

16 (g) The district shall publish, pursuant to Section 6062 of the
17 Government Code, in a newspaper of general circulation circulated
18 in each zone affected, the ordinance calling for the special bond
19 election. The required publication shall be completed at least 14
20 days before the election. If there is no newspaper, the ordinance
21 shall be posted on the district's Internet Web site or in five public
22 places, in each zone designated by the board for at least 30 days
23 before the date of the election. The district is not required to
24 provide additional notice of the election, or to issue polling place
25 cards.

26 (h) Any defect or irregularity in the proceedings prior to the
27 calling of the special bond election will not affect the validity of
28 the bonds authorized by the election. If at the election the required
29 percentage of the votes cast are in favor of incurring bonded
30 indebtedness, bonds for the zone or participating zones for the
31 amount stated in the proceedings shall be issued and sold.

32 (i) If any proposition pursuant to this section is defeated by the
33 voters, the board of directors shall not call for another election on
34 a substantially similar proposition for six months after the first
35 election.

36 ~~100105.~~

37 ~~100104.~~ (a) The board, by resolution, shall prescribe the form
38 of bonds, which shall include a designation of the zones affected,
39 and of the interest coupons attached thereto. Bonds shall be payable
40 annually or semiannually at the discretion of the board each and

1 every year on a day and date, and at a place to be fixed by the
2 board, and designated in the bonds, together with the interest on
3 all amounts unpaid on the date until the whole of the indebtedness
4 has been paid.

5 (b) The board may divide the principal amount of any issue into
6 two or more series and fix different dates for the bonds of each
7 series. The bonds of one series may be made payable at different
8 times from those of any other series. The maturity of each series
9 shall comply with this section. The board may fix a date, not more
10 than two years from the date of issuance, for the earliest maturity
11 of each issue or series of bonds. The final maturity date shall not
12 exceed 40 years from the time of incurring the indebtedness
13 evidenced by each issue or series. The board may provide for call
14 and redemption of all or any part of any issue or series of bonds
15 before maturity at prices determined by the board. A bond is not
16 subject to call or redemption prior to maturity unless it contains a
17 recital to that effect.

18 (c) The bonds shall be issued in any denominations as the board
19 determines. Bonds shall be issued in denominations of one
20 thousand dollars (\$1,000) or more, payable on the days and at the
21 place fixed in the bonds, at the specified interest rate, made payable
22 annually or semiannually. The bonds shall be numbered
23 consecutively, signed by the chair of the board, and countersigned
24 by the auditor of the district, with the seal of the district affixed
25 thereto by the clerk of the board. Signatures may be printed,
26 engraved, or lithographed. The interest coupons of the bonds shall
27 be numbered consecutively and signed by the auditor. In case any
28 officer whose signatures or countersignatures appear on the bonds
29 or coupons ceases to be an officer before the delivery of the bonds
30 to the purchaser, the bonds, coupons, and signatures or
31 countersignatures shall nevertheless be valid and sufficient for all
32 purposes.

33 ~~100106.~~

34 100105. The board may issue and sell the authorized bonds
35 for the uses and purposes of the zone or zones. The proper record
36 of the transactions shall be placed upon the books of the district,
37 and the respective zone funds shall be applied exclusively to the
38 purposes and objects described in the ordinance calling the special
39 bond election.

~~100107.~~

100106. Any bonds issued under this part and the interest thereon shall be paid by revenue derived from rates or an annual tax or assessment, imposed in accordance with this part. No zone, nor the property in the zone, is liable for the share of bonded indebtedness of any other zone; nor shall any moneys derived from taxation or assessment in any of the several zones be used in payment of principal or interest or otherwise of the share of bonded indebtedness chargeable to any other zone, except in the case of joint projects by participating zones.

~~100108.~~

100107. To the extent not covered by water rates, the board shall impose a tax or assessment each year sufficient to pay the interest and that portion of the principal of the bonds that is due or to become due before the time for making the next general tax levy. Taxes or assessments shall be imposed and collected in the respective zones of issuance together with, and not separately from, taxes for county purposes. Collected funds shall be paid into the county treasury to the credit of the zone of payment, and be used for the payment of the principal and interest on the bonds, and for no other purpose. The county treasurer shall pay the principal and interest on the bonds in the manner provided by law for the payment of principal and interest on bonds of the county.

~~100109.~~

100108. The bonds of the district issued for any zone or zones, are legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may by law be used as security for the performance of any act, or be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state, the money or funds may be invested in the bonds of the district.

~~100110.~~

100109. All bonds issued by the district under the provisions of this part shall be free and exempt from all taxation within the state.

~~100111.~~

100110. Any improvement for which bonds are approved for issuance in accordance with this part shall be made in accordance with the supporting report, plans, specifications, and map unless

1 the doing of any work is prohibited by law, or is rendered contrary
2 to the best interests of the district by some change of conditions
3 in relation thereto, in which event the board may order necessary
4 changes made in the proposed work or improvements and may
5 cause any plans and specifications to be made and adopted.

6 ~~100112.~~

7 *100111.* If bonds have been authorized by any zone or
8 participating zone of the district and the proceeds of the sale have
9 been properly expended, and the board, by resolution, determines
10 that additional bonds should be issued for carrying out the work,
11 the board may submit to the qualified voters of the zone or
12 participating zone the question of issuing additional bonds in the
13 same manner and procedure as provided in this part. All the
14 requirements of this part for the issuing and sale of the bonds and
15 for the expenditure of the proceeds apply to the additional bonds.

16 ~~100113.~~

17 *100112.* (a) The board may finance any enterprise and issue
18 revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter
19 6 (commencing with Section 54300) of Part 1 of Division 2 of
20 Title 5 of the Government Code) for the purpose of financing the
21 construction, reconstruction, replacement, acquisition, or
22 improvement of any facility or facilities necessary or convenient
23 for the storage, treatment, including reclamation, transmission, or
24 distribution of water for beneficial use within the district and for
25 the purpose of generation or transmission of electricity. This section
26 does not apply to the acquisition of any facility or facilities already
27 employed in any public utility use, unless the acquisition of the
28 facility or facilities is by mutual agreement between the district
29 and the owner of the property.

30 (b) The district may finance facilities and issue bonds pursuant
31 to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5
32 (commencing with Section 53311) of Part 1 of Division 2 of Title
33 5 of the Government Code).

34 (c) The district may acquire and improve land, facilities, or
35 equipment and issue securitized limited obligation notes pursuant
36 to Article 7.4 (commencing with Section 53835) of Chapter 4 of
37 Part 1 of Division 2 of Title 5 of the Government Code.

38 (d) Article 3 (commencing with Section 54380) of Chapter 6
39 of Part 1 of Division 2 of Title 5 of the Government Code shall not
40 apply to the issuance and sale of bonds pursuant to this section.

1 (e) The board shall not proceed under this section until it has
2 received a favorable vote at a special election called by resolution
3 of the board as to whether the district may authorize and sell
4 revenue bonds under this section. If the required percentage of the
5 voters of the district voting on the proposition at the election vote
6 in favor of the proposition, the board may proceed to issue and
7 sell revenue bonds as provided by this section.

8 (f) The resolution calling the election shall include all of the
9 following:

10 (1) The date of the election.

11 (2) The proposition to be submitted.

12 (3) The manner of holding the election and of voting for or
13 against the proposition.

14 (4) A statement that in all other particulars the election will be
15 held and the votes canvassed as provided by law for the holding
16 of elections within the district.

17 (g) The election may be held separately or may be consolidated
18 with any other election authorized by law at which the voters of
19 the district may vote.

20 (h) The district shall publish the resolution calling the election
21 and no other notice of the election need be given.

22 ~~100114.~~

23 ~~100113.~~ If a proposition for issuing bonds fails to receive the
24 required number of affirmative votes of the qualified voters voting
25 at the election, the board shall not call or order another election
26 for the same object or purpose, in the same zone or participating
27 zone, for six months from the date of the failed election.

28 ~~100115.~~

29 ~~100114.~~ The repeal or amendment of this part or the change
30 in boundaries of any zone of the district shall not in any way affect
31 or release any of the property in that district or any zone from the
32 obligations of any outstanding bonds or indebtedness until all
33 outstanding bonds and indebtedness have been fully paid and
34 discharged.

35
36 CHAPTER 7. GROUNDWATER MANAGEMENT
37

38 100120. (a) Groundwater management within the boundaries
39 of the district is the prerogative of the district and a primary
40 purpose for which the district was established and is empowered.

(b) As an integral part of its comprehensive water management program, the district shall conjunctively manage its groundwater and surface water resources to optimize water supply reliability for the benefit of the county as a whole and to protect infrastructure from subsidence. This includes actively recharging groundwater basins using local and imported water supplies as well as in-lieu recharge methods, including, but not limited to, treated water deliveries, recycled water development, and water conservation programs.

100121. The district, by ordinance, may take any of the following actions in order to improve or protect the quantity or quality of groundwater supplies within the district:

(a) Impose reasonable registration and measurement device requirements and operating regulations on water-producing facilities to minimize impact on water resources.

(b) Require the owner or operator of each water-producing facility to submit a sworn statement to the district regarding groundwater production.

(c) Require conservation practices and measures.

(d) Impose tiered rates as a water management tool to meet the purposes and intent of this part, including, but not limited to, protecting against subsidence, protecting against water waste, and promoting water use efficiency and water supply reliability.

(e) Enter into an agreement with an owner or operator of water-producing facilities for the purpose of managing water supplies of the district.

(f) Prevent harmful groundwater extractions by regulating, limiting, or temporarily suspending any or all of the following:

(1) Extractions from water producing facilities.

(2) The construction of new water producing facilities.

(3) Modification of existing water producing facilities.

(4) The reactivation of abandoned water-producing facilities.

100122. The district shall annually assess and report on the district's efforts toward protection and augmentation of the water supplies of the district. The *public* report shall *serve as the basis for proposing any increase of decrease in an existing charge or fee or for the imposition of a new charge or fee and shall* include all of the following information:

(a) Information describing the district's activities in the protection and augmentation of the water supplies of the district.

1 ~~(b) The water supplies available to the district.~~

2 ~~(c)~~

3 ~~(b) Information regarding~~ *describing* the present and future
4 water requirements of the district.

5 ~~(d) The amount of groundwater produced within each zone.~~

6 ~~(e) Supplemental supplies needed to replenish or supplement~~
7 ~~the groundwater supplies.~~

8 ~~(f)~~

9 ~~(c)~~ Expected future capital improvement and maintenance and
10 operating requirements.

11 ~~(g)~~

12 ~~(d)~~ The estimated costs for the fiscal year, and the long term,
13 of managing, protecting, operating, maintaining, augmenting, and
14 financing water supplies for each zone, including a detailed basis
15 upon which the costs are calculated and the reasons that any
16 particular groundwater management charge is ~~increasing~~ *proposed*
17 *to be increased*.

18 ~~(h)~~

19 ~~(e)~~ Information specifying the benefits that have been received
20 and will be received within each zone where a groundwater
21 management charge has been imposed and collected, or is
22 recommended to be imposed. The methodology for ascribing a
23 particular cost or portion of cost to a particular zone shall be
24 specifically identified.

25 ~~(i) A recommendation, with supporting detail, based upon the~~
26 ~~factors in this section as to whether or not the groundwater~~
27 ~~management charge should be reduced, maintained, or increased~~
28 ~~in any zone for the upcoming fiscal year.~~

29 ~~(j)~~

30 ~~(f)~~ If any groundwater management charge increase is
31 recommended for a zone, a proposal of a rate or rates per acre-foot
32 for agricultural water, and a rate or rates per acre-foot for all water
33 other than agricultural water shall be stated in the report. The
34 proposal shall show the proportional benefit and cost allocation
35 to the types of user or users within the zone.

36 ~~(k) If tiered rates are being recommended, a recommendation~~
37 ~~as to the basis for the tiered rates in each zone, as required under~~
38 ~~the applicable ordinance.~~

39 100123. ~~(a) A public hearing shall be held prior to imposing~~
40 ~~a new or increased groundwater management charge. The board~~

1 may, but is not required to, hold a hearing if the board has
2 determined to leave an existing charge as previously established.

3 (b) The clerk of the district board, pursuant to Section 6061 of
4 the Government Code, shall publish a notice of the receipt of the
5 report and of the date, time, and place of the public hearing, giving
6 at least 45 days' notice of the hearing from the date of mailing of
7 the notice. The notice is required to be posted on the district
8 Internet Web site and shall also be mailed to the owner or operator
9 of any water-producing facility at least 45 days prior to the date
10 of the public hearing.

11 (c) The notice shall invite and inform all owners or operators
12 of water-producing facilities within the district and any person
13 interested in the district's activities to examine the report, which
14 shall be made available on the district's Internet Web site and at
15 district headquarters. The notice shall state the amount of the
16 recommended charges per acre, foot, or other unit of measurement,
17 the basis upon which the charge is calculated, the reason or reasons
18 for the charge, and that the owners or operators may in person, or
19 by a legally authorized representative, appear and submit evidence
20 concerning the subject of the written report, and may support,
21 comment upon, or protest any increase.

22 100124.

23 100123. (a) The board may impose and collect a groundwater
24 management charge for access to the production of water from the
25 groundwater supplies within a zone of the district that will benefit
26 directly or indirectly from the district's management, protection,
27 and augmentation of supplies or the distribution of imported water
28 in that zone.

29 (b) Groundwater management charges imposed pursuant to this
30 part are declared to be in furtherance of district activities in the
31 management, protection, and augmentation of the water supplies
32 of the district, including reasonably related watershed stewardship
33 activities, necessary for the public health, welfare, and safety of
34 the people of the district and this state. The groundwater
35 management charges may be imposed upon the owner or operator
36 of water-producing facilities within a zone for the benefit of all
37 who rely directly or indirectly upon the groundwater supplies of
38 the zone, water imported into the zone, or water management
39 facilities or programs within the zone or that benefit the zone.

(c) In recognition of the public policy of the state that preservation of land in its natural, scenic, agricultural, or historic open-space condition is an important environmental asset, and in recognition of the greater likelihood of return flows, reduced water usage on a per acre basis, greater water supply flexibility, reduced water service costs, and other factors, the board, by resolution, may impose a different rate for water to be used for agricultural purposes.

(d) Groundwater management charges shall be calculated on the basis of groundwater production statements ~~required to be filed pursuant to Section 100121.~~

~~100125.~~

100124. The proceeds of groundwater management charges imposed and collected upon the production of water from groundwater supplies within the district may be used to pay costs, including staff costs, for the following conjunctive use activities:

(a) Permitting, managing, constructing, maintaining, and operating facilities to import water into the district, including payments made under any contract between the district and the state, the United States, or any public, private, or municipal entity.

(b) Purchasing water for the benefit of the district, including payments made under contract to the state, the United States, or any public, private, or municipal utility.

(c) Managing water supplies for the current and future benefit of the district, including demand management activities and reasonably related watershed stewardship activities.

(d) Actions and programs to conserve, store, extract, inject, recharge, recycle, protect, treat, transfer, exchange, or distribute water for the current and future benefit of the district. These actions include permitting, constructing, maintaining, and operating facilities for these purposes, including facilities for groundwater recharge, surface distribution, conjunctive use, and the treatment of water.

(e) Payment of the principal or interest of any bonded indebtedness or other obligations incurred by the district for any of the purposes set forth in this section.

100125. If a new or increased groundwater management charge or fee is proposed the district shall provide written notice by mail to all record owners within the zone subject to the charge or fee. The notice shall contain all of the following:

1 (a) The amount of the charge or fee, or the formula used for
2 imposition of the charge or fee, including whether the formula is
3 by acre foot or another measure.

4 (b) The basis upon which the amount of the proposed charge
5 or fee was calculated.

6 (c) The reason for the charge or fee.

7 (d) The date, time, and location of the public hearing on the
8 proposed charge or fee.

9 (e) A disclaimer that, if a majority of record owners within the
10 zone subject to the charge or fee file written protests against
11 imposition of the new or increased charge or fee, the new or
12 increased charge or fee will not be imposed.

13 100126. (a) The district shall conduct a public hearing for the
14 proposed new or increased groundwater management charge or
15 fee not less than 45 days after mailing the notice required pursuant
16 to Section 100125.

17 (b) The district shall consider all protests against the proposed
18 new or increased charge or fee and if written protests are presented
19 by a majority of the record owners within the zone subject to the
20 charge or fee, then the district will not impose the proposed charge
21 or fee for that zone.

22 ~~100126.~~

23 100127. Any or all revenues received by the district from
24 treated water sale contracts or surface water sales may be applied
25 to any or all of the costs set forth in Section ~~100125~~ 100124.

26 ~~100127.~~

27 100128. (a) Prior to the end of the fiscal year, based on the
28 findings and determinations from the hearing, if a hearing is
29 required under Section ~~100123~~ 100125, and in accordance with
30 the budget for that year, the board shall determine whether ~~a~~ an
31 existing groundwater management charge or fee should remain
32 the same, be reduced, or increased. ~~The board shall consider all~~
33 ~~protests filed pursuant to Section 100123 regarding the imposition~~
34 ~~of a new or increased charge, and if a majority protest is received,~~
35 ~~the board shall not impose the new or increased charge.~~ A
36 previously approved charge remains in effect until reduced or
37 increased. The anticipated revenues to be derived from the charge
38 shall not exceed the funds anticipated to be needed for groundwater
39 management services provided, including prudent short- and
40 long-term water supply and conservation management, operations,

1 maintenance, financing, including prudent reserves adopted
2 consistent with a publically noticed board-adopted reserve policy
3 and capital expenditures pursuant to this part.

4 (b) Imposition and collection of groundwater management
5 charges shall be as follows:

6 (1) Any groundwater management charge imposed shall be
7 calculated at a volumetric rate or rates per acre-foot against each
8 operator of a water-producing facility within a zone during the
9 ensuing fiscal year.

10 (2) A rate or rates may be set in each zone independent of the
11 rate or rates in any other zone.

12 (3) If the board has adopted an ordinance authorizing tiered
13 rates, and determines that tiered rates should be imposed during
14 the ensuing fiscal year, tiered rates shall be established consistent
15 with the rationale and method established in the ordinance.

16 (4) Due to the proportional benefits to the water supplies of the
17 district resulting from the agricultural use of water, the base rate
18 for agricultural water may be established at a level that is less than
19 the rate for nonagricultural water.

20 (5) Clerical errors involving the name of any person or
21 description of a water-producing facility from which the production
22 of water is otherwise properly charged, that do not affect the
23 substantial rights of the water-producing owner or operator, shall
24 not invalidate the groundwater management charge.

25 (c) If the board determines that an off-cycle imposition or
26 adjustment of the groundwater management charge is necessary
27 to maintain the financial health of the district, the board may
28 impose or adjust any groundwater management charge, or the rates
29 of any charges, on or before January 1 of each year pursuant to
30 the following process:

31 (1) The district shall prepare a supplemental report to the annual
32 report prepared pursuant to Section 100122, explaining the reasons
33 for the imposition or adjustment of the charges. ~~The supplemental~~
34 ~~report shall be filed with the clerk of the board at least 45 days~~
35 ~~before the date the new or adjusted charges are proposed to take~~
36 ~~effect.~~

37 ~~(2) A public hearing shall be noticed and held prior to imposing~~
38 ~~or adjusting a groundwater management charge pursuant to the~~
39 ~~notice and protest provisions pursuant to Sections 100122 and~~
40 ~~100123.~~

1 (2) *After the preparation of the supplemental report, the district*
2 *shall follow the process identified in Sections 100125 and 100126.*

3 ~~100128.~~

4 100129. Upon board adoption of a groundwater management
5 charge, the district shall give notice stating the board-approved
6 applicable rate or rates per acre-foot of water production for the
7 groundwater management charge ~~for the ensuing fiscal year~~ in the
8 applicable zone. The notice shall indicate ~~the applicable collection~~
9 ~~period and whether the owner or operator will be invoiced, or if~~
10 ~~the district shall rely on a required self-reported water production~~
11 ~~statement. The notice may be sent by postal card or by other~~
12 ~~first-class mail with postage prepaid by the district to each~~ *record*
13 ~~owner or operator of a water-producing facility as disclosed by~~
14 ~~the records of the district.~~

15 ~~100129.~~

16 100130. (a) The groundwater management charge is due and
17 payable to the district on or before the last date upon which the
18 water production statements are required to be filed.

19 (b) The charge is computed by multiplying the acre-feet of water
20 produced by the applicable rate.

21 (c) The district may impose an annual administrative charge on
22 a water-producing facility for which no production has been
23 recorded but which has not been permanently abandoned, provided
24 the charge does not exceed the annual cost to the district of
25 maintaining and administering the registration of that facility.

26 (d) If any owner or operator of a water-producing facility fails
27 to pay the groundwater management charge when due, the district
28 shall charge interest at the rate of 1 percent each month on the
29 delinquent amount of the groundwater management charge.

30 (e) The board may adopt regulations to provide that in excusable
31 or justifiable circumstances the penalty may be reduced or waived.

32 ~~100130.~~

33 100131. (a) If any owner or operator of a water-producing
34 facility fails to register a water-producing facility, or fails to file
35 a water production statement if required by Section 100121, the
36 district, in addition to charging interest, shall assess an
37 administrative charge to recover the costs of collection, and a
38 penalty charge against the owner or operator in an amount of 10
39 percent of the amount found by the district to be due.

(b) The board may adopt regulations to provide that in excusable or justifiable circumstances the penalty may be reduced or waived.

~~100131.~~

100132. (a) Upon good cause shown, an amended statement of water production may be filed or a correction of the records may be made at any time within one year of filing the water production statement.

(b) If, pursuant to Section ~~100129~~ 100130, the owner or operator has been notified of a determination by the district that the production of water from the water-producing facility is in excess of that disclosed by the sworn statement covering the water-producing facility, and the owner or operator fails to protest the determination in the manner and in the time set forth in this part, the owner or operator shall be precluded from demonstrating good cause as provided in subdivision (a).

CHAPTER 8. PROPERTY

100140. The district has the right-of-way for the location, construction, and maintenance of water utility and flood protection facilities, and water resources stewardship facilities in, over, and across public lands of the state, not otherwise disposed of or in use. The right-of-way granted is limited to the length and width necessary for the construction and protection of those facilities. If the selection of a right-of-way is made by the district, it shall transmit to the State Lands Commission, the Controller, and the recorder of the county in which the selected lands are situated, a duly verified plat of the lands so selected, giving the extent and the uses for which the same is claimed or desired. If the State Lands Commission approves the selection, it shall endorse its approval upon the plat and issue the district a permit to use the right-of-way and lands.

100141. The legal title to all property acquired under this part immediately and by operation of law vests in the district, and shall be held by the district, in trust, for the uses and purposes set forth in this part.

100142. (a) The board, by resolution, may determine that any real property or interest in real property is no longer necessary to be retained for district uses or purposes. The district may thereafter

1 sell, lease, or otherwise dispose of the property, including, but not
2 limited to, the following types of property:

3 (1) Real property that, in the determination of the board, has no
4 access to a public road.

5 (2) An easement for ingress and egress to property that, by the
6 terms of the easement, terminates when ingress and egress is
7 supplied to the property by a public road.

8 (b) (1) The board may reconvey surplus real property to the
9 former owner from whom the property was obtained or condemned,
10 or to the owner's successor in interest, for fair market value. Fair
11 market value shall be determined by a qualified real estate
12 appraiser.

13 (2) The district may reconvey real property to the former owner,
14 or successor in interest, for less than fair market value only if the
15 board finds that a public purpose exists justifying reconveyance
16 for less than fair market value, or as authorized by state law.

17 (c) The board, by resolution, may exchange real property of
18 equal value with any person for the purpose of removing defects
19 in the title to real property owned by the district or where the real
20 property to be exchanged is not required for district use and the
21 property to be acquired is required for district use.

22 (d) The board, by resolution, may adopt a procedure for the
23 leasing of real property owned by the district.

24 (e) The board may sell, lease, or otherwise transfer to the state,
25 county, or to any city, school district, or other special district within
26 the district, or exchange with the public entity, any real or personal
27 property or interest in that property belonging to the district upon
28 agreed terms and conditions.

29 (f) Under circumstances not specifically prescribed by this part,
30 the requirements of law regarding the disposition of real property
31 applicable to counties shall govern the district.

32 100143. The board shall adopt regulations for the exchange,
33 sale, or other disposition of district personal property no longer
34 necessary to be retained for district uses or purposes. Any sale of
35 personal property that constitutes a "fixed asset," shall only be
36 made upon public bid. Notice of the district's intended action shall
37 first be given as prescribed in Section 25363 of the Government
38 Code.

1 CHAPTER 9. PLANNING AND APPROVAL OF CAPITAL PROJECTS

2
3 100150. It is the intent of this chapter to ensure that the public
4 is informed about proposed capital projects and their funding
5 sources, that broad environmental considerations are included at
6 the earliest possible phase of planning, and that adequate
7 opportunities are afforded the public to participate in the
8 decisionmaking process.

9 100151. (a) If the board of directors determines that a capital
10 project is feasible, useful, or necessary to carry out the purposes
11 or provisions of this part, it shall initiate the project consistent with
12 this part.

13 (b) The board may receive or request planning study reports or
14 additional information, including the filing of amended or
15 supplemental reports, in order to have sufficient information to
16 provide ongoing direction regarding analysis of a project.

17 (c) The board shall determine which projects or works of
18 improvement shall be carried out and shall determine, as to each
19 project or work of improvement, that it is one of the following:

20 (1) For the common benefit of the district as a whole.

21 (2) For the common benefit of two or more but less than all
22 zones.

23 (3) For the benefit of a single zone.

24 100152. (a) An engineer's report shall be filed with the board
25 for consideration at a public hearing if the project is funded
26 partially or fully by a single zone, or two or more but less than all
27 zones of benefit, rather than by a districtwide funding mechanism.

28 (b) The engineer's report shall include all of the following:

29 (1) A determination of zone of benefit and sources of funding.

30 (2) A general description of the project.

31 (3) A general description of the lands, rights-of-way, easements,
32 and property proposed to be taken, acquired, or injured in carrying
33 out the project.

34 (4) A map that shows the location and zone of benefit of the
35 project and includes a visual depiction of the information required
36 in paragraph (3).

37 (5) An estimate of the cost of the project, including both of the
38 following:

1 (A) The cost of lands, rights-of-way, easements, and property
2 proposed to be taken, acquired, or injured in carrying out the
3 project.

4 (B) All incidental expenses likely to be incurred, including legal,
5 clerical, engineering, superintendence, inspection, printing, and
6 advertising.

7 (c) The board shall set and hold a public hearing to receive
8 comments from the public on a project's engineer's report, as
9 follows:

10 (1) The time and place for the public hearing where the board
11 will consider all comments on the engineer's report shall be
12 noticed. Notice of the public hearing shall be communicated in a
13 manner designed to provide the concerned public with notice and
14 shall also comply with the applicable provisions set forth in the
15 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
16 of Part 1 of Division 2 of Title 5 of the Government Code) or any
17 other applicable requirements.

18 (2) At the time and place fixed for the hearing, or at any time
19 to which the hearing is continued, the board shall consider all
20 written and oral comments regarding the project's engineer's report.

21 (3) If, prior to the conclusion of the hearing on the engineer's
22 report, written protests against the proposed project signed by more
23 than one-third of the registered voters residing within the affected
24 zone are filed with the board, the board may in its discretion either
25 abandon the project or suspend further proceedings on the proposed
26 project for at least one year.

27 100153. The completed planning study report, including
28 amended or supplemental reports, if any, an engineer's report, if
29 applicable, and the board's independent review and determination
30 that the project's environmental documentation is adequate and
31 complies with the California Environmental Quality Act (Division
32 13 (commencing with Section 21000) of the Public Resources
33 Code) are prerequisites to board approval of a project.

34 35 CHAPTER 10. ENFORCEMENT 36

37 100160. (a) If the district has probable cause to believe that
38 the production of water from a water-producing facility is in excess
39 of that disclosed by the sworn statements covering that
40 water-producing facility, or if no statement is filed covering a

1 water-producing facility, the district may conduct an investigation
2 and report its conclusions.

3 (b) Based on the information acquired in the investigation, the
4 district may establish the amount of water production from any
5 water-producing facility at an amount not to exceed its maximum
6 production capacity. If a water-measuring device is permanently
7 attached, its record of production is rebuttably presumed to be
8 accurate.

9 (c) After a determination has been made by the district, the
10 district shall mail a written notice of the determination to the person
11 operating the water-producing facility at the address shown in the
12 district's records. The determination made by the district is
13 conclusive as to all persons. The groundwater management charge,
14 and the interest and penalties, are immediately due and payable,
15 unless a protest is filed with the board within 15 days after the
16 mailing of the notice. Notice is complete at the time of deposit in
17 the mail, with first-class postage affixed.

18 (d) Upon the timely filing of a written protest setting forth the
19 grounds for protesting the determination of the district, the board,
20 or its designee, shall set a hearing date. Notice shall be mailed to
21 the protestant at least 10 days before the date fixed for the hearing.
22 The protestant shall have an opportunity to be heard at the hearing.
23 The district shall determine the total amount of the water
24 production and the groundwater management charge based upon
25 substantial evidence. If the water production statement was filed
26 and the amount disclosed was paid within the time required by
27 this part, and the district finds that the failure to report the amount
28 of water actually produced resulted from excusable or justifiable
29 circumstances, interest on the amount found to be due may be
30 waived. Notice of the determination by the board, or its designee,
31 shall be mailed to each protestant. Payment of the groundwater
32 management charge, and interest or penalties finally determined
33 to be due shall be made within 20 days from the date of mailing
34 of the notice of determination.

35 100161. The district shall maintain, and annually update,
36 records with regard to water production and the imposition of
37 groundwater management charges within the district. The records
38 shall include a general description of the property upon which each
39 water-producing facility is located, an identifying number or code
40 assigned to each facility, the annual water production from each

1 water-producing facility, and the groundwater management charge
2 imposed and collected at each rate.

3 100162. (a) The district may commence and prosecute
4 injunctive relief actions in superior court against an owner or
5 operator of a water-producing facility for failure to adhere to any
6 of the requirements of this part, including requirements relating
7 to the registration of a water-producing facility with the district,
8 or the timely payment of groundwater management charges.

9 (b) The court may issue and grant an injunction restraining and
10 prohibiting the named defendant from the operation of any
11 water-producing facility if it is established that the defendant has
12 failed to register the water-producing facility with the district, or
13 that the defendant is delinquent in payment of groundwater
14 management charges.

15 (c) The right to proceed for injunctive relief granted in this
16 section is an additional remedy to others provided elsewhere in
17 this part or otherwise allowed by law. Except as otherwise provided
18 by this part, Chapter 3 (commencing with Section 525) of Title 7
19 of Part 2 of the Code of Civil Procedure governs injunctive relief
20 actions described in this section. The district shall not be required
21 to provide an undertaking or bond as a condition to granting
22 injunctive relief.

23 100163. The district may bring a suit in the court having
24 jurisdiction against any operator of a water-producing facility
25 within the district for the collection of any delinquent groundwater
26 management charge. The court, in addition to allowing recovery
27 of costs as allowed by law, may fix and allow as part of the
28 judgment interest and penalties as provided in this part. If the
29 district, as a provisional remedy in bringing the suit, seeks an
30 attachment against the property of any defendant named in the
31 action, the district shall not be required to provide a bond or
32 undertaking.

33 100164. (a) It is unlawful to produce water from any
34 water-producing facility required to be registered in accordance
35 with this part if that water-producing facility has not been so
36 registered, and, if required by the board, the facility does not have
37 a water-measuring device affixed to the facility capable of
38 registering the accumulated amount of water produced.

39 (b) Violation of this provision is a misdemeanor, punishable by
40 a fine not to exceed five hundred dollars (\$500), or imprisonment

1 in the county jail not to exceed six months, or by both the fine and
2 imprisonment. Each day of operation in violation shall constitute
3 a separate offense.

4 100165. Any person who injures, alters, removes, resets,
5 adjusts, manipulates, obstructs, or in any manner interferes or
6 tampers with, or procures or causes or directs any person to injure,
7 alter, remove, reset, adjust, manipulate, obstruct, or in any manner
8 interfere or tamper with any water-measuring device affixed to
9 any water-producing facility as required by this part, that causes
10 the water-measuring device to improperly or inaccurately measure
11 and record water production, or any person who willfully does not
12 submit a water production statement to the district in accordance
13 with this part, or any person who willfully removes or breaks a
14 seal attached to an abandoned water-producing facility, or any
15 person who with intent to evade any requirement of this part files
16 with the district any false or fraudulent water production statement
17 is guilty of a misdemeanor and is punishable by a fine not to exceed
18 five hundred dollars (\$500), or imprisonment in the county jail not
19 to exceed six months, or by both fine and imprisonment.

20 100166. In implementing the enforcement of this part relating
21 to groundwater management charges, the district, in addition to
22 the powers specified elsewhere in this part, may take any of the
23 following actions:

24 (a) Install and maintain water-measuring devices, and other
25 devices that will aid in determining accurate water production, on
26 water-producing facilities not owned by the district.

27 (b) Affix seals to water-producing facilities that the owner or
28 operator has declared to be abandoned, or are in fact permanently
29 abandoned.

30 (c) After giving notice, enter onto any land for the purposes
31 enumerated in this section and for the purpose of making
32 investigations relating to water production.

33 100167. (a) Any abandoned or unused water well, or other
34 well, or other circumstance endangering the public health and
35 safety by creating a water contamination hazard, is a public
36 nuisance.

37 (b) If the district determines that a public nuisance exists, and
38 must be abated, the district, by certified mail, shall notify the
39 current record owner of the property of the need to abate the public

1 nuisance and that it is the intention of the district to record a notice
2 of violation of the ordinance.

3 (c) The notice to the owner shall describe the violation and
4 specify a time, date, and place for a hearing, at which the owner
5 may present evidence to the board that a public nuisance does not
6 actually exist and that the notice should not be recorded. The notice
7 to the owner shall state that, unless the public nuisance is abated
8 within the time specified by the board following the hearing, the
9 district may abate the public nuisance and the costs of the
10 abatement will be assessed against the property.

11 (d) The hearing shall take place no sooner than 30 days and no
12 later than 60 days from date of mailing of the notice.

13 (e) If, within 15 days of receipt of the notice, the owner of the
14 real property fails to inform the district of his or her objection to
15 recording the notice of violation, the board may record the notice
16 of violation with the county recorder.

17 (f) If, after hearing, it is determined that there has been no
18 violation, the district shall mail a clearance letter to the then current
19 owner of record. If, after the hearing, the board determines that a
20 violation has in fact occurred, the board shall record the notice of
21 violation with the county recorder.

22 (g) The notice of violation, when recorded, is constructive notice
23 of the violation to all successors in interest in the property.

24 (h) If the board determines, at the conclusion of the hearing,
25 that a public nuisance actually exists, the board may order the
26 property owner to abate the public nuisance within a specified
27 time.

28 (i) If the public nuisance is not abated within the time specified
29 in the order of the board following a hearing, the district may abate
30 the public nuisance. Any entry upon private property by the district
31 for this purpose shall be preceded by written notice to the owner
32 by certified mail stating the date and place of entry, the purpose,
33 and the number of persons entering. If the mailed notice is returned
34 undelivered, the district may provide notice by posting a copy of
35 the notice at the proposed entry point five days prior to entry.

36 (j) Any costs incurred by the district in abating a public nuisance
37 pursuant to this section are a lien upon the property upon which
38 the public nuisance existed when notice of the lien is filed and
39 recorded.

1 (k) The district shall record notice of the lien, particularly
2 identifying the property on which the nuisance was abated and the
3 amount of the lien, and naming the owner of record of the property,
4 in the office of the Santa Clara County Recorder within one year
5 after the first item of expenditures by the district or within 90 days
6 after the completion of the work, whichever occurs first. Upon
7 recordation of the notice of lien, the lien has the same force, effect,
8 and priority as a judgment lien, except that it attaches only to the
9 property described in the notice, and continues for 10 years from
10 the date of recording of the notice unless sooner released or
11 otherwise discharged.

12 SEC. 4. The provisions of this act are severable. If any
13 provision of this act or its application is held invalid, that invalidity
14 shall not affect other provisions or applications that can be given
15 effect without the invalid provision or application.

16 SEC. 5. The Legislature finds and declares that a special law
17 is necessary and that a general law cannot be made applicable
18 within the meaning of Section 16 of Article IV of the California
19 Constitution because of the unique and special surface water,
20 groundwater, and floodwater problems in the area included in the
21 Santa Clara Valley Water District.

22 SEC. 6. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 costs that may be incurred by a local agency or school district are
25 the result of a program for which legislative authority was
26 requested by that local agency or school district, within the
27 meaning of Section 17556 of the Government Code and Section
28 6 of Article XIII B of the California Constitution, or because costs
29 that may be incurred by a local agency or school district will be
30 incurred because this act creates a new crime or infraction,
31 eliminates a crime or infraction, or changes the penalty for a crime
32 or infraction, within the meaning of Section 17556 of the
33 Government Code, or changes the definition of a crime within the
34 meaning of Section 6 of Article XIII B of the California
35 Constitution.