

AMENDED IN ASSEMBLY MAY 3, 2010

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, *Monning*,
and Torrico)
(Coauthor: Senator Maldonado)

February 19, 2010

An act to repeal the Santa Clara Valley Water District Act (Chapter ~~1404~~ 1405 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~~ 1405 of the Statutes of 1951) is repealed.

SEC. 3. Division 50 (commencing with Section 100000) is 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~~ *integrated water* 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.~~

(1) The State of California and its people have a paramount interest in securing comprehensive integrated water management for the common benefit of water users within the district.

(2) The Santa Clara Valley Water District has provided needed public services, facilities, and water 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 within~~ Santa Clara County ~~for the public good~~ *a sustainable future*, the modifications made in the act adding this part are warranted.

~~(3) This part is intended to increase accountability and transparency the accountability of the district,~~ strengthen environmental commitments, improve water quality protection and sustainability, provide protection from floodwaters, and enhance water supply and water supply reliability *by using a broad,*

1 *stakeholder-based, and long-term perspective for water*
2 *management.*

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

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

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

14 (6) Collaboration with the community, water retailers, and
15 federal, state, regional, and local agencies, including solicitation
16 and consideration of input in the decisionmaking process from
17 those impacted by the decisions, is required to meet these water
18 resource management goals.

19 (7) Clear delineation of the district's authority as it relates to
20 authority exercised by others is intended to add transparency and
21 to assist the public in understanding the district's role in
22 coordinating and cooperating with other agencies with differing
23 responsibilities for water management to facilitate conjunctive
24 management, ensure efficient use of resources, provide timely
25 regulatory approvals, and prevent issuance of conflicting rules.

26 (8) Due to the combined forces of geography, climate, and the
27 foresight and efforts of water managers of the past, Santa Clara
28 County is blessed with a variety of sources of water supply,
29 including local surface water and groundwater, imported water
30 from both the State Water Project and the federal Central Valley
31 Project, banked water, recycled water, and contract supplies from
32 San Francisco. Some of these supplies are privately owned, or
33 under the control of other entities. Through this part, it is the intent
34 of the Legislature to authorize the district to conjunctively manage
35 the water supply under its authority for the common good while
36 not infringing on established water rights.

37 (9) Historically, the district's role was to secure additional
38 supplies to meet demand. Now, there are limitations on the
39 district's ability to acquire additional water and the state has
40 enacted water conservation goals. As a result, the district needs

1 *new authority to manage water resources by encouraging water*
2 *conservation and ensuring that the burden of a water shortage is*
3 *borne equitably by all users.*

4 (b) Through this part, the Legislature intends to authorize the
5 district to utilize an integrated water management approach to
6 provide a broad variety of benefits to Santa Clara County, including
7 meeting existing and future water demands; protecting and
8 improving the quality of water sources and supplies; providing
9 ~~flexibility to deal with extreme hydrological events, such as~~
10 ~~droughts and floods; adaptation to and mitigation in response to~~
11 ~~climate change; and watershed stewardship to help sustain natural~~
12 ~~resources.~~ *flexibility to deal with the impacts of anticipated extreme*
13 *hydrological events, such as droughts and floods, and related*
14 *climate impacts such as reduced snowpack, changes in local*
15 *precipitation patterns, and rising sea level; and watershed*
16 *stewardship to help sustain natural resources.*

17 (c) (1) This part shall not be construed to do either of the
18 following:

19 (A) Provide the district with regulatory authority that conflicts
20 with authority already exerted by the State Department of Public
21 Health, the State Water Resources Control Board, the California
22 regional water quality control boards, or the Public Utilities
23 Commission to require water conservation measures.

24 (B) Provide the district with jurisdiction over water conservation
25 measures that conflict with measures that have been imposed by
26 the cities in Santa Clara County, Santa Clara County, or water
27 retailers pursuant to state or federal laws or regulations.

28 (2) It is the intent of the Legislature that the district lead, assist,
29 and oversee water conservation efforts and regulate only in the
30 absence of other effective efforts, or as necessary to ensure
31 continued delivery of water under the district's state and federal
32 contracts.

33 (d) It is the intent of the Legislature that this part should not
34 conflict with any provision of the California Constitution, or impact
35 existing water rights.

36 (e)

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

39 100003. (a) This part provides the authority for the
40 organization and creation of a special district, known as the Santa

1 Clara Valley Water District, and this part succeeds the former
2 Santa Clara Valley Water District Act (Chapter 1405 of the Statutes
3 of 1951), as amended, and any of its statutory predecessors.

4 (b) Notwithstanding the repeal of the former Santa Clara Valley
5 Water District Act (Chapter 1405 of the Statutes of 1951), the
6 Santa Clara Valley Water District is continued in existence and
7 shall be deemed to have been formed and in existence as of the
8 initial enactment of that act in 1951.

9 (c) Any indebtedness, bond, note, certificate of participation,
10 judgment, contract, special tax, benefit assessment, fee, charge,
11 election, ordinance, resolution, regulation, rule, or any other action
12 taken by the district pursuant to the former Santa Clara Valley
13 Water District Act (Chapter 1405 of the Statutes of 1951), as
14 amended, and any of its statutory predecessors, that was incurred,
15 adopted, imposed, or entered into before January 1, 2011, shall
16 remain in full force and effect.

17
18 CHAPTER 2. DEFINITIONS
19

20 100020. Unless the context otherwise requires, the definitions
21 in this part chapter govern the construction of this part.

22 100021. “Abandoned well” means any well that is one of the
23 following:

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

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

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

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

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

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

35 100021. (a) “Abandoned well” means any well that has not
36 been used for one year or more, unless the owner demonstrates
37 an intention for future use of the well. For purposes of this section,
38 an owner demonstrates an intention for future use of the well, if,
39 in accordance with Section 115700 of the Health and Safety Code,

1 *the well owner properly maintains the well in a manner that meets*
2 *the following requirements:*

3 *(1) The well shall not allow impairment of the quality of water*
4 *within the well and groundwater encountered by the well.*

5 *(2) The top of the well or well casing shall be provided with a*
6 *cover that is secured by a lock or by other means to prevent its*
7 *removal without the use of equipment or tools, to prevent*
8 *unauthorized access, to prevent a safety hazard to humans and*
9 *animals, and to prevent unlawful disposal of wastes in the well.*

10 *The cover shall be watertight where the top of the well casing or*
11 *other surface openings to the well are below ground level, such*
12 *as in a vault, or below known levels of flooding. The cover shall*
13 *be watertight if the well is inactive for more than five consecutive*
14 *years. A pump or motor, angle drive, or other surface feature of*
15 *a well, when in compliance with these requirements, shall*
16 *constitute a sufficient cover.*

17 *(3) The well shall be marked in a manner that makes it easily*
18 *visible and easily located, and labeled so as to be easily identified*
19 *as a well.*

20 *(4) The area surrounding the well shall be kept clear of brush,*
21 *debris, and waste materials.*

22 *(b) A well is not an “abandoned well” if a pump has been*
23 *temporarily removed for repair or replacement and the well meets*
24 *the requirements set forth in subdivision (a). The well shall be*
25 *adequately covered during the pump repair period to prevent injury*
26 *to people and animals and to prevent the entrance of foreign*
27 *material, surface water, pollutants, or contaminants.*

28 100022. “Agricultural water” means water primarily used in
29 the commercial production of agricultural crops or livestock.

30 100023. “Board of directors” or “board” means the board of
31 directors of the district.

32 100024. “Chief executive officer” means the individual
33 appointed by the board to manage the district, and may be
34 designated as General Manager or CEO.

35 100025. “Conjunctive use” means the coordinated and planned
36 management of both surface water and groundwater resources to
37 optimize the availability, reliability, and quality of water supplies
38 and to meet other overall water resource management objectives.
39 Water is stored in a groundwater basin for later, planned use by

1 intentionally recharging the basin with imported and local water
2 supplies during periods of surplus water supply.
3 ~~100026. “Contamination” means the degradation of surface~~
4 ~~water or groundwater or the impairment of the beneficial uses of~~
5 ~~such waters due to physical, chemical, biological, or radiological~~
6 ~~substances.~~
7 ~~100027.~~
8 100026. “County” means Santa Clara County.
9 ~~100028.~~
10 100027. “Designated floodway” means the channel of a stream
11 and that portion of the adjoining floodplain required to reasonably
12 provide for the construction of a project for passage of the design
13 flood, including the lands necessary for construction of project
14 levees.
15 ~~100029.~~
16 100028. “Director” means a member of the board of directors.
17 ~~100030.~~
18 100029. “District” means the Santa Clara Valley Water District.
19 ~~100031.~~
20 100030. “Extraction” means the act of obtaining groundwater
21 by pumping or other controlled means.
22 ~~100032.~~
23 100031. “Fiscal year” means July 1 of one calendar year to
24 June 30 of the following calendar year.
25 ~~100033.~~
26 100032. “Floodplain” means low lying areas bordering a stream
27 that are inundated periodically by its waters.
28 ~~100034.~~
29 100033. “Groundwater” means all water beneath the earth’s
30 surface whether or not flowing through known and definite
31 channels.
32 ~~100035.~~
33 100034. “Habitat” means the specific area or environment in
34 which a particular type of plant or animal lives. To be complete,
35 an organism’s habitat must provide all of the basic requirements
36 of life for that organism.
37 100035. *“Inactive well” or “standby well” means a well not*
38 *routinely operating, but capable of being made operable with a*
39 *minimum of effort.*

1 100036. “Integrated water management” means a holistic
2 approach to flood, water resource, and environmental activities.

3 100037. “Nonagricultural water” means water used for any
4 beneficial use other than agricultural use, including municipal,
5 industrial, landscape irrigation, and domestic uses.

6 ~~10038.~~

7 100038. “Record owner” means, for purposes of compliance
8 with the notice required pursuant to Section 100125, an owner or
9 operator of a water-producing facility directly liable for paying
10 the groundwater management charges to the district, or the owner
11 of a parcel on which a water-producing facility is present, as
12 evidenced by the last equalized secured property tax assessment
13 tool.

14 100039. “Operator” means the person operating a
15 water-producing facility. The owner of such a facility shall be
16 conclusively presumed to be the operator unless satisfactory
17 showing is made to the district that the water-producing facility
18 actually is operated by some other person.

19 100040. “Person” includes federal, state, and local public
20 agencies, private corporations, partnerships, limited liability
21 companies, individuals, or groups of individuals, whether legally
22 organized or not.

23 100041. (a) “Production” or “producing” means the extraction
24 or extracting of groundwater, by pumping or any other method,
25 from shafts, tunnels, wells (including, but not limited to, abandoned
26 oil wells), excavations, or other sources of groundwater, for
27 domestic, municipal, irrigation, industrial, or other beneficial use.

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

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

31 (2) Water incidentally produced with oil or gas in the production
32 thereof.

33 (3) Water incidentally produced in a mining or excavating
34 operation.

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

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

38 (c) If the groundwater extracted in any one of the circumstances
39 listed in subdivision (b) is used or sold by the producer for any
40 domestic, municipal, irrigation, industrial, or other beneficial

1 purpose, the exclusion from the definition of “production” or
2 “producing” shall not apply.

3 100042. “Recycled water” means wastewater that is suitable
4 for beneficial use as a result of treatment.

5 100043. “Stewardship” means the careful and responsible
6 management of the environment and natural resources for the
7 current and future benefit of the greater community.

8 100043.5. “Surface water” means water above the natural
9 surface of the ground, including streams, lakes, and reservoirs.

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

15 100045. “Water-producing facility” means any device or
16 method, mechanical or otherwise, for the production of water from
17 the groundwater supplies within the district or a zone of the district.

18 100046. “Water production statement” means the certified
19 statement that is submitted by the owner or operator of a
20 water-producing facility to the district that describes the production
21 of groundwater from that facility during a specified period.

22 100047. “Watershed” means a region or area bounded
23 peripherally by a divide and draining immediately to a particular
24 watercourse or body of water.

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

31 100049. “Zone” or “zones” means an area within the district,
32 as determined by the board, that will benefit from planning, studies,
33 management programs, or projects undertaken by the district, in
34 a manner unique to that area.

35 CHAPTER 3. PURPOSES AND POWERS

36
37
38 100050. The purpose of this part is to authorize the district to
39 provide integrated comprehensive protection from flooding,
40 comprehensive water resource management for all beneficial uses,

1 and ~~environmental~~ water resources stewardship. In *connection*
2 *with* carrying out its mission, the district may do any of the
3 following:

4 (a) Protect the people, property, and environmental resources
5 of the county from the damaging effects of floodwater and
6 stormwater, including tidal floodwater and the floodwater and
7 stormwater of streams that have their sources outside the district,
8 but flow into the district.

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

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

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

17 (e) Prevent the waste or diminution of the water supply in the
18 district.

19 (f) Preserve open space in the county and collaborate with
20 county parks and other entities to provide access for trails, open
21 space, recreational use, or environmental protection on district
22 property.

23 (g) Protect against land subsidence.

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

25 ~~(i) Encourage the integration of energy and water policies to~~
26 ~~increase renewable energy production, to promote water use~~
27 ~~efficiency, and to reduce environmental impacts.~~

28 *(h) Plan for and adapt to climate change impacts in a*
29 *cost-efficient manner.*

30 *(i) Encourage the integration of energy and water policies.*

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

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

35 100051. The district is hereby declared to be a body corporate
36 and politic and has the powers expressly granted by this part,
37 together with other powers reasonably implied from those express
38 powers, and powers necessary or proper to carry out fully the
39 provisions of this part including:

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

- 1 (1) To have perpetual succession.
- 2 (2) To sue and be sued in the name of the district in all actions
- 3 and proceedings in all courts and tribunals of competent
- 4 jurisdiction.
- 5 (3) To adopt and make changes to a seal.
- 6 (4) To employ labor and contract for services consistent with
- 7 applicable Public Contract Code provisions.
- 8 (5) To enter into contracts and other instruments necessary or
- 9 convenient to the exercise of powers under this part.
- 10 (6) To have the power and right to disseminate information
- 11 concerning the rights, properties, activities, plans, and proposals
- 12 of the district.
- 13 (7) To adopt, enact, and enforce ordinances to carry out the
- 14 purposes and powers of this part.
- 15 (8) To adopt and carry out any definite plan or system for
- 16 accomplishing, facilitating, or financing any work that may
- 17 lawfully be accomplished by the district, and to enforce that plan
- 18 or system by resolution or ordinance.
- 19 (9) To cooperate with, enter into, and to do any acts necessary
- 20 for the proper performance of any agreement with the state, the
- 21 United States, any state, city, county, district of any kind, public
- 22 or private corporation, association, firm, or individual, for the
- 23 ownership, joint acquisition, leasing, disposition, use, management,
- 24 construction, installation, extension, maintenance, repair, or
- 25 operation of any rights, works, or other property of a kind that
- 26 might lawfully be acquired or owned by the district, or for the
- 27 lawful performance of any power or purpose of the district provided
- 28 for in this part.
- 29 (10) To carry on technical and other investigations of any kind
- 30 necessary or convenient for the accomplishment of water resource
- 31 management authorized by this part. Through inspection warrants,
- 32 the district has the right of access through its authorized
- 33 representatives to all properties within the district that impact or
- 34 relate to groundwater, watercourses, or streams flowing in or into
- 35 the district.
- 36 (b) All of the following with regard to acquisition of property,
- 37 eminent domain, and construction of work:
- 38 (1) To acquire by grant, purchase, lease, gift, devise, contract,
- 39 or otherwise; and to hold, use, enjoy, sell, let, or dispose of water,
- 40 water rights, real and personal property of every kind, including

1 lands, structures, buildings, rights-of-way, easements, and
2 privileges.

3 (2) Upon payment of just compensation, to exercise the power
4 of eminent domain, either within or outside the district, in
5 connection with the purposes and activities authorized by this part.

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

9 *(3) Upon payment of just compensation, to exercise the power*
10 *of eminent domain to acquire surface water or extract*
11 *groundwater, from a person with the legal right to use that water.*

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

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

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

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

24 (8) To participate in the market of credits or other benefits
25 related to reduction of environmental impacts or improved
26 integrated resource management.

27 (9) To enter upon any land, *with the permission of the landowner*
28 *or after obtaining an inspection warrant issued pursuant to Title*
29 *13 (commencing with Section 1822.50) of Part 3 of the Code of*
30 *Civil Procedure*, to make photographs, studies, surveys,
31 examinations, or appraisals related to acquisition or use of real
32 property, and to locate the necessary works of improvement and
33 the lines for channels, conduits, canals, pipelines, wells,
34 water-producing facilities, roadways, and other rights-of-way.

35 (10) To acquire and to hold the capital stock of any mutual water
36 company or corporation, domestic or foreign, owning water or
37 water rights, canals, waterworks, franchises, concessions, or rights,
38 when the ownership of stock is necessary to secure a water supply
39 required by the district, or any part thereof, upon the condition that
40 when holding stock, the district is entitled to all the rights, powers,

1 and privileges, and is subject to all the obligations and liabilities
2 conferred or imposed by law upon other holders of stock in the
3 same company.

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

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

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

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

21 (3) To store water in surface or underground reservoirs within
22 or outside the district for the common benefit of the district or of
23 any zones.

24 (4) To manage and replenish the groundwater basins within the
25 district.

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

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

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

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

1 (9) To take any action necessary or appropriate to litigate or
2 resolve water rights, water quality, or water use issues, within or
3 outside the district, including, but not limited to, enforcement
4 actions to prevent the wasteful use of water, harm to water, or to
5 natural resources within the district.

6 ~~(10) To enact regulations affirmatively managing the watersheds~~
7 ~~within the district, to protect the paramount right of the district to~~
8 ~~manage the water supplies of the district for the benefit of its~~
9 ~~inhabitants, including regulation of existing and proposed wells,~~
10 ~~exportation and pricing of water from the district, or from a zone.~~
11 ~~interference with beneficial uses of water within the district.~~

12 (10) To enact regulations affirmatively managing the watersheds
13 within the district, to protect the right of the district to manage the
14 water supplies of the district for the benefit of its inhabitants,
15 including reasonable regulation of existing and proposed wells,
16 exportation of water from the district, or from a zone, or between
17 district charge zones. Consistent with the intent to provide
18 sustainable integrated water management for the good of the
19 county and the region as a whole, the regulations shall permit
20 district-approved interoperability efforts and emergency response
21 efforts.

22 (d) All of the following powers with regard to protection from
23 flooding:

24 (1) To manage the ~~flood~~ floodwaters and stormwaters of the
25 district, including tidal floodwaters, and the ~~flood~~ floodwaters and
26 stormwaters of streams that have sources outside of the district,
27 but that flow into the district, and to conserve the waters for
28 beneficial purposes.

29 (2) To protect the watercourses, watersheds, public highways,
30 health, safety, and property in the district, and streams flowing
31 into the district, from damage caused by those ~~flood~~ floodwaters
32 or stormwaters.

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

36 (4) To construct, manage, and maintain all district flood
37 protection facilities, including levees, modified channels, bypasses,
38 culverts, floodwalls, detention basins, diversion structures, all
39 appurtenances and other structures, as well as to utilize

1 nonstructural methods, for the purpose of containing or conveying
2 floodwaters in accordance with this part.

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

6 (e) All of the following powers with regard to protection of
7 water quality:

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

11 (2) To expend funds *to provide a replacement water supply for*
12 *contaminated water*, to perform any cleanup, containment,
13 abatement, prevention, remedial work, public notification, or
14 educational public outreach which, in the determination of the
15 board, is required under regulatory authority of any state or federal
16 agency or by the magnitude of the endeavor, or the urgent need
17 for prompt action to prevent, abate, or contain any threatened or
18 existing contamination of or pollution to the surface water or
19 groundwater of the district. This action may be taken in addition
20 to work by the contaminator or polluter, or if the contaminator or
21 polluter fails to take action. The district may perform the work,
22 itself, by contract, or in cooperation with any other governmental
23 entity. *The work shall be performed in an economical and efficient*
24 *manner.*

25 (3) To hold the contaminator or polluter liable for costs if,
26 pursuant to paragraph (2), the district *provides a replacement water*
27 *supply* or causes contamination or pollution to be cleaned up or
28 contained, the effects abated, or other necessary remedial action
29 is taken to address actual or threatened contamination or pollution.
30 The person or entity causing or threatening to cause that
31 contamination or pollution is liable to the district to the extent of
32 the reasonable costs actually incurred, including direct staff
33 response costs and overhead. The amount of the costs, together
34 with court costs and reasonable attorney's fees are recoverable in
35 a civil action by the district or other means. In such an action, the
36 necessity for the *replacement water supply*, cleanup, containment,
37 abatement, remedial work, public notification, or educational public
38 outreach and the reasonableness of the costs shall be presumed,
39 and the defendant shall have the burden of ~~proving, that the work~~

1 ~~was not necessary, proving that the action was not necessary or~~
2 ~~the costs not reasonable.~~

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

7 ~~(5) To prevent unacceptable land surface subsidence or to~~
8 ~~improve or protect the quantity or quality of groundwater supplies~~
9 ~~within the groundwater basins or a subarea of the basin, by~~
10 ~~requiring registration of all wells and controlling groundwater~~
11 ~~extractions from the area by regulating, limiting, or suspending~~
12 ~~extractions from wells, the construction of new wells, the enlarging~~
13 ~~or modification of existing wells, and the reactivation of wells.~~

14 (5) To prevent land surface subsidence that would adversely
15 impact water quality.

16 (6) To require the sealing of abandoned ~~or unused~~ wells
17 according to ordinance and to require the county or any
18 incorporated city in the county to require all persons applying for
19 ~~any~~ a land development permit or approval to show on a map
20 attached to the application the existence and location of any well
21 on the property. If a well is shown, the map shall be referred by
22 the county ~~or city~~ to the district for review and action prior to
23 approval of the application.

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

29 (f) All of the following powers with regard to water resources
30 stewardship:

31 (1) To provide for the protection, enhancement, and restoration
32 of watercourses, watersheds, wetlands, riparian functions, habitat,
33 and natural resources in connection with carrying out the purposes
34 set forth in this part.

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

38 (3) To provide information, resources, and consultation to the
39 agencies responsible for land-use decisions or actions that may
40 affect the health, stability, or function of watercourses, watersheds,

1 groundwater basins, riparian functions, habitat, and natural
2 resources within the district, *while respecting the authority of those*
3 *agencies to make final land use decisions.*

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

7 (5) To implement environmental enhancement activities and
8 mitigation and monitoring of natural resources.

9 (6) To enact regulations to protect water resources stewardship
10 facilities from activities that could diminish their ability to achieve
11 their purpose.

12 (g) All of the following financial powers:

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

16 (2) To prescribe, revise, and collect property-related fees and
17 charges for facilities, including, but not limited to, flood protection,
18 stormwater management, storm drainage, mitigation banks,
19 restoration, enhancement, protection, or preservation of habitats,
20 furnished or to be furnished to any new building, improvement,
21 or structure constructed or to be constructed in a zone of the
22 district.

23 (3) If a drainage or flood control problem is referred to the
24 district by the County of Santa Clara, or any incorporated city in
25 the county, as authorized by the Subdivision Map Act (Division
26 2 (commencing with Section 66410) of Title 7 of the Government
27 Code) or otherwise, to require the installation of drainage or flood
28 control improvements necessary or convenient for needs of the
29 zone, including, but not limited to, residential, subdivision,
30 commercial, and industrial drainage and flood control needs.
31 Revenues derived under this section shall be used for the following:

32 (A) The acquisition, construction, reconstruction, maintenance,
33 and operation of the flood control or storm drainage facilities of
34 the zone.

35 (B) To reduce the principal or interest of any bonded
36 indebtedness thereof.

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

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

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

4 (6) To impose groundwater management charges to cover the
5 cost of groundwater management activities, including conjunctive
6 use, for the production of water from the groundwater supplies
7 within a zone of the district that benefits from recharge of
8 groundwater supplies, from the availability or distribution of
9 imported water, or from the extraction of groundwater from all
10 water extraction facilities within the district.

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

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

16 100052. The district shall not intervene or take part in, or pay
17 the costs or expenses of, private actions or controversies between
18 the owners of lands or water rights that do not affect the interests
19 of the district.

20 100053. (a) *This chapter shall not be construed to supersede*
21 *the land use planning authority of a city, county, or any other entity*
22 *to which land use planning authority has been delegated.*

23 (b) *It is the intent of the Legislature that early coordination with*
24 *land use planning agencies help the district anticipate and plan*
25 *for future growth and reduce the risk of regional growth exceeding*
26 *water supply capability or the ability to manage flooding.*

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 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) *Prior to initiating the required public process for adoption*
15 *of an ordinance, the district shall complete relevant studies, as*
16 *necessary, to properly frame the issues for public input.*

17 (d) *The board shall adopt an ordinance establishing an*
18 *administrative appeal process through which a person aggrieved*
19 *by a decision of the district may appeal that decision to the board*
20 *of directors.*

21 (e)

22 (e) It is a misdemeanor for any person to violate any district
23 ordinance adopted pursuant to this section from and after the
24 effective date of the ordinance. The violation is punishable by a
25 fine not to exceed five hundred dollars (\$500), or imprisonment
26 in the county jail not to exceed 30 days, or both the fine and
27 imprisonment.

28 (f)

29 (f) Any violation or threatened violation of a district ordinance
30 may also be enjoined by civil action.

31 100073. Prior to adoption of a regulation, the board shall make
32 a finding that the public necessity requires the action, and the
33 resolution or ordinance enacted shall state the ultimate facts upon
34 which the finding is based.

35 100074. (a) The board may appoint and employ any officers
36 and positions as desired and prescribe their duties and set their
37 compensation.

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

1 (c) Officers and employees shall be employed, suspended, or
2 their employment terminated in accordance with written rules,
3 regulations, standards, and procedures for appointment, suspension,
4 and termination of employment.

5 100075. At the option of the board, employees appointed by
6 the board may be required to execute public official bonds before
7 entering upon the duties of their employment. The district board
8 may opt for the district to pay for the bonds.

9 100076. Except as otherwise provided by this part or other
10 applicable law, Part 3 (commencing with Section 900) and Part 4
11 (commencing with Section 940) of Division 3.6 of Title 1 of the
12 Government Code govern claims for money or damages against
13 the district.

14 100077. In order to determine the legality of the district's
15 existence, or of any contract entered into by the district, the district
16 may institute a proceeding in the superior court of this state,
17 pursuant to Section 860 of the Code of Civil Procedure. The State
18 of California shall be a required defendant in the action, and
19 consent to be named a defendant is given.

20
21 CHAPTER 5. ZONES
22

23 100080. (a) The board, by resolution, may at any time establish
24 one or more separate or overlapping zones within the district
25 without reference to the boundaries of other zones. A zone may
26 be created by the board upon a determination that it is in the public
27 interest to provide specific water resource management, flood
28 control or watershed stewardship services, or levels of service,
29 construct or improve facilities, or raise revenues, within a defined
30 area of the district.

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

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

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

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

3 (C) Describes the reasons for forming the zone.

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

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

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

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

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

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

36 (5) If the resolution or petition proposes that work within the
37 zone is to be financed by special taxes, benefit assessments, fees,
38 standby charges, bonds, or notes, the board shall proceed according
39 to law. If the voters or property owners do not approve those

funding methods, the zone shall remain formed, but alternative financing shall be obtained.

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

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

(f) Proceedings for the establishment of a new zone or for an amendment to existing zones may be conducted concurrently with, and as a part of the institution of, projects providing service to the zones to be created.

CHAPTER 6. FINANCIAL MATTERS

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

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

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

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

~~100092. (a) In its budget, the board of directors may establish a designated reserve for capital outlay and a designated reserve for contingencies. If the board of directors establishes a designated reserve, it shall declare the exclusive purposes for which the funds in the reserve may be spent. The funds in the designated reserve~~

1 shall be spent only for the exclusive purposes for which the board
2 of directors established the designated reserve. The reserves shall
3 be maintained according to generally accepted accounting
4 principles. The reserves shall be kept in an interest bearing account.

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

7 (c) If the board of directors finds that the funds in a designated
8 reserve are no longer required for the exclusive purposes for which
9 it was established, the board of directors, by a four-fifths vote of
10 the total membership of the board of directors, may discontinue
11 the designated reserve or transfer any funds that are no longer
12 required from the designated reserve to the district's general fund.

13 (d) Notwithstanding any other provision of this section, in a
14 state of emergency or in a local emergency, a board of directors
15 may temporarily transfer funds from a designated reserve for capital
16 outlay or a designated reserve for contingencies to the district's
17 general fund. The board of directors shall restore these funds to
18 the designated reserves as soon as feasible.

19 100093. (a) At any regular meeting or properly noticed special
20 meeting after the adoption of its final budget, the board of directors
21 may adopt a resolution amending the budget and ordering the
22 transfer of funds between categories with delegated fund limits.

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

26 (c) Only the board of directors may transfer funds from a
27 designated reserve for capital outlay or a designated reserve for
28 contingencies.

29 100094. If the board determines that the amount of revenue
30 available to the district or any of its zones is inadequate to acquire,
31 construct, improve, rehabilitate, manage, or replace the facilities
32 authorized by this part, or to meet the costs of providing the
33 services or administering the programs authorized by this part, or
34 for funding or refunding any outstanding indebtedness, the board
35 may incur debt and raise revenues pursuant to this part.

36 100091. (a) *On or before June 15 of each year, the board shall*
37 *hold a noticed public meeting to hear comments from the public*
38 *regarding the board's proposed budget.*

39 (b) *The board shall annually review its financial reserves and*
40 *its reserve management policy.*

1 (c) On or before June 30 of each year, the board, by resolution,
2 shall adopt the budget as finally determined.

3 100092. The board may establish reserves as the board deems
4 appropriate.

5 100095. (a) The district may charge a fee to cover the cost of
6 any service that the district provides, or the cost of enforcing any
7 regulation for which the fee is charged. A fee shall not exceed the
8 costs reasonably borne by the district in providing the service or
9 enforcing the regulation for which the fee is charged.

10 (b) The district may charge ~~residents or taxpayers of the district~~
11 ~~district residents or taxpayers~~ a fee authorized by this section that
12 is less than the fee that it charges nonresidents or nontaxpayers.

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

17 100096. Prior to imposing or increasing any fee for
18 property-related services, the district shall comply with the
19 requirements of Article XIII D of the California Constitution.

20 100097. The district may expend its share of property tax
21 revenue allocated pursuant to subdivision (b) of Section 93 of the
22 Revenue and Taxation Code to pay for both of the following:

23 (a) The general administrative costs and expenses, including
24 maintenance and operation of established works of the district, to
25 carry out any of the objects or purposes of this part of common
26 benefit to the district.

27 (b) The costs and expenses of constructing or extending any or
28 all works established within or on behalf of a zone ~~or participating~~
29 ~~zones~~ within the district if revenue used for that purpose is
30 replaced.

31 100098. The district may impose benefit assessments to pay
32 the cost of carrying out any of the objects or purposes of this part
33 on behalf of a zone or zones, including constructing, maintaining,
34 managing, operating, extending, ~~maintaining, repairing~~ *repairing*,
35 or otherwise improving any work of improvement, implementing
36 programs or projects, or financing any of the foregoing, consistent
37 with Article XIII D of the California Constitution. These benefit
38 assessments include, but are not limited to, benefit assessments
39 imposed pursuant to any of the following:

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

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

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

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

12 100099. The district may impose special taxes, consistent with
13 Article XIII C of the California Constitution, pursuant to the
14 following:

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

25 (b) The Mello-Roos Community Facilities Act of 1982 (Chapter
26 2.5 (commencing with Section 53311) of Part 1 of Division 2 of
27 Title 5 of the Government Code).

28 100100. If the board of directors determines that the amount
29 of revenue available to the district or any of its zones is inadequate
30 to acquire, construct, improve, rehabilitate, or replace the facilities
31 authorized by this division, or for funding or refunding any
32 outstanding indebtedness, the board of directors may incur debt
33 pursuant to this chapter or any other applicable provision of law.

34 100101. (a) The district may issue promissory notes to borrow
35 money and incur indebtedness for the purposes of this part,
36 including, but not limited to, the payment of current expenses,
37 pursuant to this section.

38 (b) Any indebtedness incurred pursuant to this section shall bear
39 interest at a rate that shall not exceed the rate permitted under

1 Article 7 (commencing with Section 53530) of Chapter 3 of Part
2 1 of Division 2 of Title 5 of the Government Code.

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

7 100102. (a) The district may borrow money and incur
8 short-term indebtedness, not to exceed the limitations established
9 in subdivision (d) by action of the board of directors without the
10 necessity of calling and holding an election.

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

13 (c) Indebtedness incurred under this section shall be evidenced
14 by short-term notes payable at stated times fixed by the board. The
15 short-term notes shall mature no later than five years from the date
16 of issuance. Interest on short-term notes shall not exceed the limits
17 established under state law. Short-term notes are general
18 obligations of the district payable from revenues, charges, taxes,
19 and assessments.

20 (d) Short-term notes shall not to be issued if in any fiscal year
21 the amount payable, when added to the interest thereon, exceeds
22 85 percent of the estimated amount of the revenues, charges, taxes,
23 and assessments of the district that will be available in that fiscal
24 year for payment of short-term notes and the interest thereon.

25 100103. (a) If the board determines that it is necessary to incur
26 a general obligation bond indebtedness for the acquisition or
27 improvement of real property, the board may proceed pursuant to
28 Article 11 (commencing with Section 5790) of Chapter 4 of
29 Division 5 of the Public Resources Code.

30 (b) If the board determines that a bonded indebtedness should
31 be incurred to pay the cost of any project in any zone or zones, the
32 board, by resolution, may determine and declare the respective
33 amounts of bonds to be issued to raise the amount of money
34 necessary for each project and the denomination and the maximum
35 rate of interest of the bonds. In determining each amount of bonds
36 and the amount of money necessary for each project, the board
37 may include in its determination all of the following:

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

1 (2) 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 (3) All incidental expenses likely to be incurred, including legal,
5 clerical, engineering, superintendence, inspection, printing, and
6 advertising.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 100104. (a) The board, by resolution, shall prescribe the form
28 of bonds, which shall include a designation of the zones affected,
29 and of the interest coupons attached thereto. Bonds shall be payable
30 annually or semiannually at the discretion of the board each and
31 every year on a day and date, and at a place to be fixed by the
32 board, and designated in the bonds, together with the interest on
33 all amounts unpaid on the date until the whole of the indebtedness
34 has been paid.

35 (b) The board may divide the principal amount of any issue into
36 two or more series and fix different dates for the bonds of each
37 series. The bonds of one series may be made payable at different
38 times from those of any other series. The maturity of each series
39 shall comply with this section. The board may fix a date, not more
40 than two years from the date of issuance, for the earliest maturity

1 of each issue or series of bonds. The final maturity date shall not
2 exceed 40 years from the time of incurring the indebtedness
3 evidenced by each issue or series. The board may provide for call
4 and redemption of all or any part of any issue or series of bonds
5 before maturity at prices determined by the board. A bond is not
6 subject to call or redemption prior to maturity unless it contains a
7 recital to that effect.

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

23 100105. The board may issue and sell the authorized bonds
24 for the uses and purposes of the zone or zones. The proper record
25 of the transactions shall be placed upon the books of the district,
26 and the respective zone funds shall be applied exclusively to the
27 purposes and objects described in the ordinance calling the special
28 bond election.

29 100106. Any bonds issued under this part and the interest
30 thereon shall be paid by revenue derived from rates or an annual
31 tax or assessment, imposed in accordance with this part. No zone,
32 nor the property in the zone, is liable for the share of bonded
33 indebtedness of any other zone; nor shall any moneys derived from
34 taxation or assessment in any of the several zones be used in
35 payment of principal or interest or otherwise of the share of bonded
36 indebtedness chargeable to any other zone, except in the case of
37 joint projects by participating zones.

38 100107. To the extent not covered by water rates, the board
39 shall impose a tax or assessment each year sufficient to pay the
40 interest and that portion of the principal of the bonds that is due

1 or to become due before the time for making the next general tax
2 levy. Taxes or assessments shall be imposed and collected in the
3 respective zones of issuance together with, and not separately from,
4 taxes for county purposes. Collected funds shall be paid into the
5 county treasury to the credit of the zone of payment, and be used
6 for the payment of the principal and interest on the bonds, and for
7 no other purpose. The county treasurer shall pay the principal and
8 interest on the bonds in the manner provided by law for the
9 payment of principal and interest on bonds of the county.

10 100108. The bonds of the district issued for any zone or zones,
11 are legal investments for all trust funds, and for the funds of all
12 insurance companies, banks, both commercial and savings, and
13 trust companies, and for the state school funds, and whenever any
14 money or funds may by law be used as security for the performance
15 of any act, or be invested in bonds of cities, cities and counties,
16 counties, school districts, or municipalities in the state, the money
17 or funds may be invested in the bonds of the district.

18 100109. All bonds issued by the district under the provisions
19 of this part shall be free and exempt from all taxation within the
20 state.

21 100110. Any improvement for which bonds are approved for
22 issuance in accordance with this part shall be made in accordance
23 with the supporting report, plans, specifications, and map unless
24 the doing of any work is prohibited by law, or is rendered contrary
25 to the best interests of the district by some change of conditions
26 in relation thereto, in which event the board may order necessary
27 changes made in the proposed work or improvements and may
28 cause any plans and specifications to be made and adopted.

29 100111. If bonds have been authorized by any zone or
30 participating zone of the district and the proceeds of the sale have
31 been properly expended, and the board, by resolution, determines
32 that additional bonds should be issued for carrying out the work,
33 the board may submit to the qualified voters of the zone or
34 participating zone the question of issuing additional bonds in the
35 same manner and procedure as provided in this part. All the
36 requirements of this part for the issuing and sale of the bonds and
37 for the expenditure of the proceeds apply to the additional bonds.

38 100112. (a) The board may finance any enterprise and issue
39 revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter
40 6 (commencing with Section 54300) of Part 1 of Division 2 of

1 Title 5 of the Government Code) for the purpose of financing the
2 construction, reconstruction, replacement, acquisition, or
3 improvement of any facility or facilities necessary or convenient
4 for the storage, treatment, including reclamation, transmission, or
5 distribution of water for beneficial use within the district and for
6 the purpose of generation or transmission of electricity. This section
7 does not apply to the acquisition of any facility or facilities already
8 employed in any public utility use, unless the acquisition of the
9 facility or facilities is by mutual agreement between the district
10 and the owner of the property.

11 (b) The district may finance facilities and issue bonds pursuant
12 to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5
13 (commencing with Section 53311) of Part 1 of Division 2 of Title
14 5 of the Government Code).

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

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

22 (e) The board shall not proceed under this section until it has
23 received a favorable vote at a special election called by resolution
24 of the board as to whether the district may authorize and sell
25 revenue bonds under this section. If the required percentage of the
26 voters of the district voting on the proposition at the election vote
27 in favor of the proposition, the board may proceed to issue and
28 sell revenue bonds as provided by this section.

29 (f) The resolution calling the election shall include all of the
30 following:

31 (1) The date of the election.

32 (2) The proposition to be submitted.

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

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

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

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

3 100113. If a proposition for issuing bonds fails to receive the
4 required number of affirmative votes of the qualified voters voting
5 at the election, the board shall not call or order another election
6 for the same object or purpose, in the same zone or participating
7 zone, for six months from the date of the failed election.

8 100114. The repeal or amendment of this part or the change
9 in boundaries of any zone of the district shall not in any way affect
10 or release any of the property in that district or any zone from the
11 obligations of any outstanding bonds or indebtedness until all
12 outstanding bonds and indebtedness have been fully paid and
13 discharged.

14
15 CHAPTER 7. GROUNDWATER MANAGEMENT
16

17 100120. (a) Groundwater management within the boundaries
18 of the district is ~~the prerogative of the district and~~ a primary
19 purpose for which the district was established and is empowered.

20 (b) As an integral part of ~~its comprehensive~~ *the district's*
21 *comprehensive integrated* water management program, the district
22 shall conjunctively manage its groundwater and surface water
23 resources to optimize water supply reliability for the benefit of the
24 county as a whole and to protect infrastructure from subsidence.
25 This includes actively recharging groundwater basins using local
26 and imported water supplies as well as in-lieu recharge methods,
27 including, but not limited to, treated water deliveries, recycled
28 water development, *water banking*, and water conservation
29 programs.

30 100121. The district, by ordinance, may take any of the
31 following actions in order to ~~improve or protect the quantity or~~
32 ~~quality~~ *reduce or eliminate potential groundwater overdraft, or*
33 *to improve or protect the quality and sustainability* of groundwater
34 supplies within the district:

35 (a) Impose reasonable registration and measurement device
36 requirements and ~~operating regulations~~ *performance standards* on
37 water-producing facilities to minimize impact on water resources.

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

1 ~~(c) Require conservation practices and measures.~~

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

6 *(c) Require conservation practices and measures, including the*
7 *imposition of rate structures to promote water conservation, such*
8 *as tiered rates or other methods aimed at discouraging the wasteful*
9 *use of water. However, a water retailer or other entity that has*
10 *adopted an urban water management plan pursuant to Part 2.6*
11 *(commencing with Section 10610) of Division 6, or an equivalent*
12 *water conservation plan, that meets standards for water*
13 *conservation adopted by the Department of Water Resources or*
14 *any other state agency, and any other applicable water*
15 *conservation standards established by state or federal law for*
16 *continued delivery of imported water to the district, shall not be*
17 *subject to additional water conservation requirements imposed by*
18 *the district.*

19 ~~(e)~~

20 *(d) Enter into an agreement with an owner or operator of*
21 *water-producing facilities for the purpose of managing water*
22 *supplies of the district.*

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

25 ~~(1) Extractions from water producing facilities.~~

26 ~~(2) The construction of new water producing facilities.~~

27 ~~(3) Modification of existing water producing facilities.~~

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

29 *(e) Regulate groundwater extractions to the extent necessary*
30 *to prevent groundwater overdraft and minimize the risk of land*
31 *subsidence.*

32 100122. The district shall annually assess and report on the
33 district's efforts toward protection and augmentation of the water
34 supplies of the district. The public report shall serve as the basis
35 for proposing any increase ~~of~~ or decrease in an existing charge or
36 fee or for the imposition of a new charge or fee and shall include
37 all of the following information:

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

1 (b) Information describing the present and future water
2 requirements of the district.

3 (c) Expected future capital improvement and maintenance and
4 operating requirements.

5 (d) The estimated costs for the fiscal year, and the long term,
6 of managing, protecting, operating, maintaining, augmenting, and
7 financing water supplies for each zone, including a detailed basis
8 upon which the costs are calculated and the reasons that any
9 particular groundwater management charge is proposed to be
10 increased.

11 (e) Information specifying the benefits that have been received
12 and will be received within each zone where a groundwater
13 management charge has been imposed and collected, or is
14 recommended to be imposed. The methodology for ascribing a
15 particular cost or portion of cost to a particular zone shall be
16 specifically identified.

17 (f) If any groundwater management charge increase is
18 recommended for a zone, a proposal of a rate or rates per acre-foot
19 for agricultural water, and a rate or rates per acre-foot for all water
20 other than agricultural water shall be stated in the report. The
21 proposal shall show the proportional benefit and cost allocation
22 to the types of user or users within the zone.

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.~~

(c) In recognition of the public policy of the state that agriculture helps to preserve land in its natural, scenic, and historic open-space condition, which is an important environmental asset, and in recognition of the greater likelihood of return flows, provision of permeable surfaces to facilitate groundwater recharge, reduced water usage on a per acre basis, greater water supply flexibility, reduced water service and infrastructure costs, and other factors that provide the basis for a differential rate, the board, by resolution supported by substantial evidence, and consistent with Article XIII D of the California Constitution, 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.

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.~~ *watershed stewardship activities related to the preservation and improvement of the quantity and quality of groundwater supplies in the zone in which the groundwater management charges are imposed.*

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

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

11 100125. If a new or increased groundwater management charge
12 or fee is proposed the district shall provide written notice by mail
13 to all record owners within the zone subject to the charge or fee.
14 The notice shall contain all of the following:

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

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

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

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

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

27 100126. (a) The district shall conduct a public hearing for the
28 proposed new or increased groundwater management charge or
29 fee not less than 45 days after mailing the notice required pursuant
30 to Section 100125.

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

36 100127. Any or all revenues received by the district from
37 treated water sale contracts or surface water sales may be applied
38 to any or all of the costs set forth in Section 100124.

39 100128. (a) Prior to the end of the fiscal year, based on the
40 findings and determinations from the hearing, if a hearing is

1 required under Section 100125, and in accordance with the budget
2 for that year, the board shall determine whether an existing
3 groundwater management charge or fee should remain the same,
4 be reduced, or increased. A previously approved charge remains
5 in effect until reduced or increased. The anticipated revenues to
6 be derived from the charge shall not exceed the funds anticipated
7 to be needed for groundwater management services provided,
8 including prudent short- and long-term water supply and
9 conservation management, operations, maintenance, financing,
10 including prudent reserves adopted consistent with a publicly
11 noticed board-adopted reserve policy and capital expenditures
12 pursuant to this part.

13 (b) Imposition and collection of groundwater management
14 charges shall be as follows:

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

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

21 ~~(3) If the board has adopted an ordinance authorizing tiered~~
22 ~~rates, and determines that tiered rates should be imposed during~~
23 ~~the ensuing fiscal year, tiered rates shall be established consistent~~
24 ~~with the rationale and method established in the ordinance.~~

25 ~~(4) Due to the proportional benefits to the water supplies of the~~
26 ~~district resulting from the agricultural use of water, the base rate~~
27 ~~for agricultural water may be established at a level that is less than~~
28 ~~the rate for nonagricultural water.~~

29 *(3) If the board has adopted an ordinance authorizing rate*
30 *structures to promote conservation, including tiered rates, and*
31 *determines, based upon credible, fact-based, scientific or*
32 *engineering evidence, that the evidence supports imposing the*
33 *water conservation rate structure, the rates shall be established*
34 *consistent with the rationale and method established in the*
35 *ordinance.*

36 *(4) If there is substantial evidence of proportional benefits*
37 *resulting from the agricultural use of water, consistent with the*
38 *requirements set forth in subdivision (c) of Section 100123, the*
39 *base rate for agricultural water use may be established at a level*
40 *that is less than the rate for nonagricultural water.*

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

6 (c) If the board determines that an off-cycle imposition or
7 adjustment of the groundwater management charge is necessary
8 to maintain the financial health of the district, the board may
9 impose or adjust any groundwater management charge, or the rates
10 of any charges, on or before January 1 of each year pursuant to
11 the following process:

12 (1) The district shall prepare a supplemental report to the annual
13 report prepared pursuant to Section 100122, explaining the reasons
14 for the imposition or adjustment of the charges.

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

17 100129. Upon board adoption of a groundwater management
18 charge, the district shall give notice stating the board-approved
19 applicable rate or rates per acre-foot of water production for the
20 groundwater management charge in the applicable zone. The notice
21 shall indicate whether the owner or operator will be invoiced, or
22 if the district shall rely on a required self-reported water production
23 statement. The notice may be sent by postal card or by other
24 first-class mail with postage prepaid by the district to each record
25 owner of a water-producing facility as disclosed by the records of
26 the district.

27 100130. (a) The groundwater management charge is due and
28 payable to the district on or before the last date upon which the
29 water production statements are required to be filed.

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

32 ~~(c) The district may impose an annual administrative charge on~~
33 ~~a water-producing facility for which no production has been~~
34 ~~recorded but which has not been permanently abandoned, provided~~
35 ~~the charge does not exceed the annual cost to the district of~~
36 ~~maintaining and administering the registration of that facility.~~

37 *(c) The district may impose an annual administrative charge*
38 *for a water producing facility. However, that charge shall not*
39 *exceed the estimated annual cost to the district of maintaining and*
40 *administering the account associated with the facility.*

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

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

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

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 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

1 the uses for which the same is claimed or desired. If the State Lands
2 Commission approves the selection, it shall endorse its approval
3 upon the plat and issue the district a permit to use the right-of-way
4 and lands.

5 100141. The legal title to all property acquired under this part
6 immediately and by operation of law vests in the district, and shall
7 be held by the district, in trust, for the uses and purposes set forth
8 in this part.

9 100142. (a) The board, by resolution, may determine that any
10 real property or interest in real property is no longer necessary to
11 be retained for district uses or purposes. The district may thereafter
12 sell, lease, or otherwise dispose of the property, including, but not
13 limited to, the following types of property:

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

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

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

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

28 (c) The board, by resolution, may exchange real property of
29 equal value with any person for the purpose of removing defects
30 in the title to real property owned by the district or where the real
31 property to be exchanged is not required for district use and the
32 property to be acquired is required for district use.

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

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

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

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

CHAPTER 9. PLANNING AND APPROVAL OF CAPITAL PROJECTS

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

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

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

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

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

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

(3) For the benefit of a single zone.

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

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

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

1 (2) A general description of the project.

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

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

8 (5) An estimate of the cost of the project, including both of the
9 following:

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

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

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

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

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

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

36 100153. The completed planning study report, including
37 amended or supplemental reports, if any, an engineer's report, if
38 applicable, and the board's independent review and determination
39 that the project's environmental documentation is adequate and
40 complies with the California Environmental Quality Act (Division

1 13 (commencing with Section 21000) of the Public Resources
2 Code) are prerequisites to board approval of a project.

3
4 CHAPTER 10. ENFORCEMENT
5

6 100160. (a) If the district has probable cause to believe that
7 the production of water from a water-producing facility is in excess
8 of that disclosed by the sworn statements covering that
9 water-producing facility, or if no statement is filed covering a
10 water-producing facility, the district may conduct an investigation
11 and report its conclusions.

12 (b) Based on the information acquired in the investigation, the
13 district may establish the amount of water production from any
14 water-producing facility at an amount not to exceed its maximum
15 production capacity. If a water-measuring device is permanently
16 attached, its record of production is rebuttably presumed to be
17 accurate.

18 (c) After a determination has been made by the district, the
19 district shall mail a written notice of the determination to the person
20 operating the water-producing facility at the address shown in the
21 district's records. The determination made by the district is
22 conclusive as to all persons. The groundwater management charge,
23 and the interest and penalties, are immediately due and payable,
24 unless a protest is filed with the board within 15 days after the
25 mailing of the notice. Notice is complete at the time of deposit in
26 the mail, with first-class postage affixed.

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

1 management charge, and interest or penalties finally determined
2 to be due shall be made within 20 days from the date of mailing
3 of the notice of determination.

4 100161. The district shall maintain, and annually update,
5 records with regard to water production and the imposition of
6 groundwater management charges within the district. The records
7 shall include a general description of the property upon which each
8 water-producing facility is located, an identifying number or code
9 assigned to each facility, the annual water production from each
10 water-producing facility, and the groundwater management charge
11 imposed and collected at each rate.

12 100162. (a) The district may commence and prosecute
13 injunctive relief actions in superior court against an owner or
14 operator of a water-producing facility for failure to adhere to any
15 of the requirements of this part, including requirements relating
16 to the registration of a water-producing facility with the district,
17 or the timely payment of groundwater management charges.

18 (b) The court may issue and grant an injunction restraining and
19 prohibiting the named defendant from the operation of any
20 water-producing facility if it is established that the defendant has
21 failed to register the water-producing facility with the district, or
22 that the defendant is delinquent in payment of groundwater
23 management charges.

24 (c) The right to proceed for injunctive relief granted in this
25 section is an additional remedy to others provided elsewhere in
26 this part or otherwise allowed by law. Except as otherwise provided
27 by this part, Chapter 3 (commencing with Section 525) of Title 7
28 of Part 2 of the Code of Civil Procedure governs injunctive relief
29 actions described in this section. The district shall not be required
30 to provide an undertaking or bond as a condition to granting
31 injunctive relief.

32 100163. The district may bring a suit in the court having
33 jurisdiction against any operator of a water-producing facility
34 within the district for the collection of any delinquent groundwater
35 management charge. The court, in addition to allowing recovery
36 of costs as allowed by law, may fix and allow as part of the
37 judgment interest and penalties as provided in this part. If the
38 district, as a provisional remedy in bringing the suit, seeks an
39 attachment against the property of any defendant named in the

1 action, the district shall not be required to provide a bond or
2 undertaking.

3 100164. (a) It is unlawful to produce water from any
4 water-producing facility required to be registered in accordance
5 with this part if that water-producing facility has not been so
6 registered, and, if required by the board, the facility does not have
7 a water-measuring device affixed to the facility capable of
8 registering the accumulated amount of water produced.

9 (b) Violation of this provision is a misdemeanor, punishable by
10 a fine not to exceed five hundred dollars (\$500), or imprisonment
11 in the county jail not to exceed six months, or by both the fine and
12 imprisonment. Each day of operation in violation shall constitute
13 a separate offense.

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

30 100166. In implementing the enforcement of this part relating
31 to groundwater management charges, the district, in addition to
32 the powers specified elsewhere in this part, may take any of the
33 following actions:

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

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

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

4 100167. (a) Any abandoned ~~or unused water~~ well, or other
5 well, or other circumstance endangering the public health and
6 safety by creating a water contamination hazard, is a public
7 nuisance.

8 (b) If the district determines that a public nuisance exists, and
9 must be abated, the district, by certified mail, shall notify the
10 current record owner of the property of the need to abate the public
11 nuisance and that it is the intention of the district to record a notice
12 of violation of the ordinance.

13 (c) The notice to the owner shall describe the violation and
14 specify a time, date, and place for a hearing, at which the owner
15 may present evidence to the board that a public nuisance does not
16 actually exist and that the notice should not be recorded. The notice
17 to the owner shall state that, unless the public nuisance is abated
18 within the time specified by the board following the hearing, the
19 district may abate the public nuisance and the costs of the
20 abatement will be assessed against the property.

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

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

27 (f) If, after hearing, it is determined that there has been no
28 violation, the district shall mail a clearance letter to the then current
29 owner of record. If, after the hearing, the board determines that a
30 violation has in fact occurred, the board shall record the notice of
31 violation with the county recorder.

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

34 (h) If the board determines, at the conclusion of the hearing,
35 that a public nuisance actually exists, the board may order the
36 property owner to abate the public nuisance within a specified
37 time.

38 (i) If the public nuisance is not abated within the time specified
39 in the order of the board following a hearing, the district may abate
40 the public nuisance. Any entry upon private property by the district

1 for this purpose shall be preceded by written notice to the owner
2 by certified mail stating the date and place of entry, the purpose,
3 and the number of persons entering. If the mailed notice is returned
4 undelivered, the district may provide notice by posting a copy of
5 the notice at the proposed entry point five days prior to entry.

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

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

21 (l) *As used in this section, “contamination” has the same*
22 *meaning as set forth in subdivision (k) of Section 13050.*

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

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

33 SEC. 6. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 costs that may be incurred by a local agency or school district are
36 the result of a program for which legislative authority was
37 requested by that local agency or school district, within the
38 meaning of Section 17556 of the Government Code and Section
39 6 of Article XIII B of the California Constitution, or because costs
40 that may be incurred by a local agency or school district will be

1 incurred because this act creates a new crime or infraction,
2 eliminates a crime or infraction, or changes the penalty for a crime
3 or infraction, within the meaning of Section 17556 of the
4 Government Code, or changes the definition of a crime within the
5 meaning of Section 6 of Article XIII B of the California
6 Constitution.

O