

AMENDED IN ASSEMBLY MAY 19, 2010

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 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~~ *The bill would provide that a person who violates a district ordinance that implements the authority of the district, as revised, would be is* 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.

1 SEC. 2. The Santa Clara Valley Water District Act (Chapter
2 1405 of the Statutes of 1951) is repealed.

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

5
6 DIVISION 50. SPECIAL WATER DISTRICT ACTS

7
8 PART 1. SANTA CLARA VALLEY WATER DISTRICT ACT

9
10 CHAPTER 1. GENERAL PROVISIONS

11
12 100000. This part shall be known, and may be cited, as the
13 Santa Clara Valley Water District Act.

14 100001. A special district is hereby created for integrated water
15 management to be called the Santa Clara Valley Water District.
16 The jurisdiction of the district consists of all the territory of the
17 County of Santa Clara lying within the exterior boundaries of the
18 county. As used in this part, "district" means the Santa Clara Valley
19 Water District.

20 100002. (a) The Legislature finds and declares all of the
21 following:

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

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

32 (3) This part is intended to increase the accountability of the
33 district, strengthen environmental commitments, improve water
34 quality protection and sustainability, provide protection from
35 floodwaters, and enhance water supply and water supply reliability
36 by using a ~~broad~~, stakeholder-based, and long-term perspective
37 for water management *sustainability*.

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

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

6 (6) Collaboration with the community, water retailers, and
7 federal, state, regional, and local agencies, including solicitation
8 and consideration of input in the decisionmaking process from
9 those ~~impacted~~ *affected* by the decisions, is required to meet these
10 water resource management goals.

11 (7) Clear delineation of the district's authority as it relates to
12 authority exercised by ~~others~~ *other agencies* is intended to add
13 transparency and to assist the public in understanding the district's
14 role in coordinating and cooperating with other agencies with
15 differing responsibilities for water management to facilitate
16 conjunctive management, ensure efficient use of resources, provide
17 timely regulatory approvals, and prevent issuance of conflicting
18 rules.

19 (8) Due to the combined forces of geography, climate, and the
20 foresight and efforts of water managers of the past, Santa Clara
21 County is blessed with a variety of sources of water supply,
22 including local surface water and groundwater, imported water
23 from both the State Water Project and the federal Central Valley
24 Project, banked water, recycled water, and contract supplies from
25 San Francisco. Some of these supplies are privately owned, or
26 under the control of other entities. Through this part, it is the intent
27 of the Legislature to authorize the district to conjunctively manage
28 the water supply under its authority for the common good while
29 not infringing on established water rights, *nor limiting existing*
30 *authority of the City and County of San Francisco or the Bay Area*
31 *Water Supply and Conservation Agency, nor affecting matters that*
32 *are determined through the agreements between the City and*
33 *County of San Francisco and its wholesale customers.*

34 (9) Historically, the district's role was to secure additional
35 supplies to meet demand. Now, there are limitations on the
36 district's ability to acquire additional water and the state has
37 enacted water conservation goals. As a result, the district needs
38 new authority to manage water resources by encouraging water
39 conservation and ensuring that the burden of a water shortage is
40 borne equitably by all users.

(b) Through this part, the Legislature intends to authorize the district to utilize an integrated water management approach to provide a broad variety of benefits to Santa Clara County, including meeting existing and future water demands; protecting and improving the quality of water sources and supplies; providing flexibility to ~~deal with~~ address the impacts of anticipated extreme hydrological events, such as droughts and floods, and related climate impacts such as reduced snowpack, changes in local precipitation patterns, and rising sea level; and watershed stewardship to help sustain natural resources.

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

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

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

(C) Provide the district with unilateral authority to impose measures on other agencies to mitigate climate change or increase the production of renewable or alternative energy.

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

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

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

100003. (a) This part provides the authority for the organization and creation of a special district, known as the Santa Clara Valley Water District, and this part succeeds the former Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended, and any of its statutory predecessors.

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

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

CHAPTER 2. DEFINITIONS

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

~~100021.~~

100020.1. (a) “Abandoned well” means any well that has not been used for one year or more, unless the owner demonstrates an intention for future use of the well. For purposes of this section, an owner demonstrates an intention for future use of the well, if, in accordance with Section 115700 of the Health and Safety Code, the well owner properly maintains the well in a manner that meets the following requirements:

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

(2) The top of the well or well casing shall be provided with a cover that is secured by a lock or by other means to prevent its removal without the use of equipment or tools, to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent unlawful disposal of wastes in the well. The cover shall be watertight where the top of the well casing or other surface openings to the well are below ground level, such as in a vault, or below known levels of flooding. The cover shall be watertight if the well is inactive for more than five consecutive years. A pump or motor, angle drive, or other surface feature of a well, when in compliance with these requirements, shall constitute a sufficient cover.

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

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

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

12 ~~100022. “Agricultural water” means water primarily used in~~
13 ~~the commercial production of agricultural crops or livestock.~~

14 ~~100023. “Board of directors” or “board” means the board of~~
15 ~~directors of the district.~~

16 ~~100024. “Chief executive officer” means the individual~~
17 ~~appointed by the board to manage the district, and may be~~
18 ~~designated as General Manager or CEO.~~

19 ~~100025. “Conjunctive use” means the coordinated and planned~~
20 ~~management of both surface water and groundwater resources to~~
21 ~~optimize the availability, reliability, and quality of water supplies~~
22 ~~and to meet other overall water resource management objectives.~~
23 ~~Water is stored in a groundwater basin for later, planned use by~~
24 ~~intentionally recharging the basin with imported and local water~~
25 ~~supplies during periods of surplus water supply.~~

26 ~~100026. “County” means Santa Clara County.~~

27 ~~100027. “Designated floodway” means the channel of a stream~~
28 ~~and that portion of the adjoining floodplain required to reasonably~~
29 ~~provide for the construction of a project for passage of the design~~
30 ~~flood, including the lands necessary for construction of project~~
31 ~~levees.~~

32 ~~100028. “Director” means a member of the board of directors.~~

33 ~~100029. “District” means the Santa Clara Valley Water District.~~

34 ~~100030. “Extraction” means the act of obtaining groundwater~~
35 ~~by pumping or other controlled means.~~

36 ~~100031. “Fiscal year” means July 1 of one calendar year to~~
37 ~~June 30 of the following calendar year.~~

38 ~~100032. “Floodplain” means low lying areas bordering a stream~~
39 ~~that are inundated periodically by its waters.~~

1 ~~100033. “Groundwater” means all water beneath the earth’s~~
2 ~~surface whether or not flowing through known and definite~~
3 ~~channels.~~

4 ~~100034. “Habitat” means the specific area or environment in~~
5 ~~which a particular type of plant or animal lives. To be complete,~~
6 ~~an organism’s habitat must provide all of the basic requirements~~
7 ~~of life for that organism.~~

8 ~~100035. “Inactive well” or “standby well” means a well not~~
9 ~~routinely operating, but capable of being made operable with a~~
10 ~~minimum of effort.~~

11 ~~100036. “Integrated water management” means a holistic~~
12 ~~approach to flood, water resource, and environmental activities.~~

13 ~~100037. “Nonagricultural water” means water used for any~~
14 ~~beneficial use other than agricultural use, including municipal,~~
15 ~~industrial, landscape irrigation, and domestic uses.~~

16 ~~100038. “Record owner” means, for purposes of compliance~~
17 ~~with the notice required pursuant to Section 100125, an owner or~~
18 ~~operator of a water-producing facility directly liable for paying~~
19 ~~the groundwater management charges to the district, or the owner~~
20 ~~of a parcel on which a water-producing facility is present, as~~
21 ~~evidenced by the last equalized secured property tax assessment~~
22 ~~tool.~~

23 ~~100039. “Operator” means the person operating a~~
24 ~~water-producing facility. The owner of such a facility shall be~~
25 ~~conclusively presumed to be the operator unless satisfactory~~
26 ~~showing is made to the district that the water-producing facility~~
27 ~~actually is operated by some other person.~~

28 ~~100040. “Person” includes federal, state, and local public~~
29 ~~agencies, private corporations, partnerships, limited liability~~
30 ~~companies, individuals, or groups of individuals, whether legally~~
31 ~~organized or not.~~

32 ~~100041. (a) “Production” or “producing” means the extraction~~
33 ~~or extracting of groundwater, by pumping or any other method,~~
34 ~~from shafts, tunnels, wells (including, but not limited to, abandoned~~
35 ~~oil wells), excavations, or other sources of groundwater, for~~
36 ~~domestic, municipal, irrigation, industrial, or other beneficial use.~~

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

38 ~~(1) The extraction or extracting of groundwater incidentally~~
39 ~~produced in the construction or reconstruction of a well.~~

1 ~~(2) Water incidentally produced with oil or gas in the production~~
2 ~~thereof.~~

3 ~~(3) Water incidentally produced in a mining or excavating~~
4 ~~operation.~~

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

6 ~~(5) Water produced as a result of dewatering activities to avoid~~
7 ~~subsurface flooding.~~

8 ~~(c) If the groundwater extracted in any one of the circumstances~~
9 ~~listed in subdivision (b) is used or sold by the producer for any~~
10 ~~domestic, municipal, irrigation, industrial, or other beneficial~~
11 ~~purpose, the exclusion from the definition of “production” or~~
12 ~~“producing” shall not apply.~~

13 ~~100042. “Recycled water” means wastewater that is suitable~~
14 ~~for beneficial use as a result of treatment.~~

15 ~~100043. “Stewardship” means the careful and responsible~~
16 ~~management of the environment and natural resources for the~~
17 ~~current and future benefit of the greater community.~~

18 ~~100043.5. “Surface water” means water above the natural~~
19 ~~surface of the ground, including streams, lakes, and reservoirs.~~

20 ~~100044. “Water conservation” means technological or~~
21 ~~behavioral improvements in indoor and outdoor residential,~~
22 ~~commercial, industrial, institutional, or agricultural water use that~~
23 ~~lower demand, lower per capita water use, or result in benefits to~~
24 ~~water supply, water quality, or the environment.~~

25 ~~100045. “Water-producing facility” means any device or~~
26 ~~method, mechanical or otherwise, for the production of water from~~
27 ~~the groundwater supplies within the district or a zone of the district.~~

28 ~~100046. “Water production statement” means the certified~~
29 ~~statement that is submitted by the owner or operator of a~~
30 ~~water-producing facility to the district that describes the production~~
31 ~~of groundwater from that facility during a specified period.~~

32 ~~100047. “Watershed” means a region or area bounded~~
33 ~~peripherally by a divide and draining immediately to a particular~~
34 ~~watercourse or body of water.~~

35 ~~100048. “Well” means any artificial excavation constructed~~
36 ~~by any method for the purpose of extracting water from, or~~
37 ~~injecting water into, the underground; monitoring or observing~~
38 ~~groundwater; obtaining subsurface data; or installing equipment~~
39 ~~for electronically protecting metallic equipment (cathodic~~
40 ~~protection).~~

1 ~~100049. “Zone” or “zones” means an area within the district,~~
2 ~~as determined by the board, that will benefit from planning, studies,~~
3 ~~management programs, or projects undertaken by the district, in~~
4 ~~a manner unique to that area.~~

5 100020.2. “Agricultural water” means water primarily used
6 in the commercial production of agricultural crops or livestock.

7 100020.3. “Board of directors” or “board” means the board
8 of directors of the district.

9 100020.4. “Chief executive officer” means the individual
10 appointed by the board to manage the district, and may be
11 designated as General Manager or CEO.

12 100020.5. “Conjunctive management” means the coordinated
13 and planned management by the district of all available water
14 resources, including groundwater, surface water, treated water,
15 recycled water, and other water resources to optimize the
16 availability, reliability, and quality of water supplies and to meet
17 other overall water resource management objectives.

18 100020.6. “County” means Santa Clara County.

19 100020.7. “Designated floodway” means the channel of a
20 stream and that portion of the adjoining floodplain required to
21 reasonably provide for the construction of a project for passage
22 of the design flood, including the lands necessary for construction
23 of project levees.

24 100020.8. “Director” means a member of the board of
25 directors.

26 100020.9. “District” means the Santa Clara Valley Water
27 District.

28 100020.10. “Extraction” means the act of obtaining
29 groundwater by pumping or other controlled means.

30 100020.11. “Fiscal year” means July 1 of one calendar year
31 to June 30 of the following calendar year.

32 100020.12. “Floodplain” means low lying areas bordering a
33 stream that are inundated periodically by its waters.

34 100020.13. “Groundwater” means all water beneath the
35 earth’s surface whether or not flowing through known and definite
36 channels.

37 100020.14. “Groundwater basin” means any basin identified
38 in the Department of Water Resources Bulletin No. 118, dated
39 September 1975, or as amended.

1 100020.15. “Groundwater overdraft” means the condition of
2 a groundwater basin when the amount of water withdrawn by
3 pumping exceeds total recharge including both natural and
4 intentional recharge. For purposes of this chapter, this
5 determination shall be made based on a fiveyear reference period
6 so that normal variations in water balance due to weather
7 conditions do not trigger the measures aimed at addressing
8 overdraft.

9 100020.16. “Habitat” means the specific area or environment
10 in which a particular type of plant or animal lives. To be complete,
11 an organism’s habitat must provide all of the basic requirements
12 of life for that organism.

13 100020.17. “Inactive well” or “standby well” means a well
14 not routinely operating, but capable of being made operable with
15 a minimum of effort.

16 100020.18. “In-lieu recharge” means accomplishing increased
17 storage of groundwater by providing other water to users who
18 rely on groundwater as a primary supply, in order to accomplish
19 groundwater storage through the direct use of that other water in
20 lieu of pumping groundwater.

21 100020.19. “Integrated water management” means a holistic
22 approach to flood, water resource, and environmental activities.

23 100020.20. “Mutual water company” means any private
24 corporation or association organized for the purposes of delivering
25 water to its stockholders and members at cost, including use of
26 works for conserving, treating, and reclaiming water. A public
27 utility subject to the jurisdiction of the Public Utilities Commission
28 is not a mutual water company.

29 100020.21. “Nonagricultural water” means water used for
30 any beneficial use other than agricultural use, including municipal,
31 industrial, landscape irrigation, and domestic uses.

32 100020.22. “Record owner” means, for purposes of compliance
33 with the notice required pursuant to Section 100125, an owner or
34 operator of a water-producing facility directly liable for paying
35 the groundwater management charges to the district, or the owner
36 of a parcel on which a water-producing facility is present, as
37 evidenced by the last equalized secured property tax assessment
38 tool.

39 100020.23. “Operator” means the person operating a
40 water-producing facility. The owner of such a facility shall be

1 conclusively presumed to be the operator unless satisfactory
2 showing is made to the district that the water-producing facility
3 actually is operated by some other person.

4 100020.24. "Person" includes federal, state, and local public
5 agencies, private corporations, partnerships, limited liability
6 companies, individuals, or groups of individuals, whether legally
7 organized or not.

8 100020.25. (a) "Production" or "producing" means the
9 extraction or extracting of groundwater, from shafts, tunnels, wells,
10 including, but not limited to, abandoned oil wells, excavations, or
11 other sources of groundwater, for domestic, municipal, irrigation,
12 industrial, or other beneficial use.

13 (b) "Production" or "producing" excludes any of the following:

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

16 (2) Water incidentally produced with oil or gas in the production
17 of oil or gas.

18 (3) Water incidentally produced in a mining or excavating
19 operation.

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

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

23 (c) If the groundwater extracted in any one of the circumstances
24 listed in subdivision (b) is used or sold by the producer for any
25 domestic, municipal, irrigation, industrial, or other beneficial
26 purpose, the exclusion from the definition of "production" or
27 "producing" shall not apply.

28 100020.26. "Recycled water" means wastewater that is suitable
29 for beneficial use as a result of treatment.

30 100020.27. "Stewardship" means the careful and responsible
31 management of the environment and natural resources for the
32 current and future benefit of the greater community.

33 100020.28. "Surface water" means water above the natural
34 surface of the ground, including streams, lakes, and reservoirs.

35 100020.29. "Water conservation" means technological or
36 behavioral improvements in indoor or outdoor residential,
37 commercial, industrial, institutional, or agricultural water use
38 that lower demand or lower per capita water use.

100020.30. “Water-producing facility” means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the district or a zone of the district.

100020.31. “Water production statement” means the certified statement that is submitted by the owner or operator of a water-producing facility to the district that describes the production of groundwater from that facility during a specified period.

100020.32. “Watershed” means a region or area bounded peripherally by a divide and draining immediately to a particular watercourse or body of water.

100020.33. “Well” means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground; monitoring or observing groundwater; obtaining subsurface data; or installing equipment for electronically protecting metallic equipment (cathodic protection).

100020.34. “Zone” or “zones” means an area within the district, as determined by the board, that will benefit from planning, studies, management programs, or projects undertaken by the district, in a manner unique to that area.

CHAPTER 3. PURPOSES AND POWERS

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

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

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

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

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

3 (e) Prevent the waste or diminution of the water supply in the
4 district.

5 (f) Preserve open space in the county and collaborate with
6 county parks and other entities to provide access for trails, open
7 space, recreational use, or environmental protection on district
8 property.

9 (g) Protect against land subsidence.

10 (h) Plan for and adapt to climate change impacts in a
11 cost-efficient manner.

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

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

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

17 100051. The district is hereby declared to be a body corporate
18 and politic and has the powers expressly granted by this part,
19 together with other powers reasonably implied from those express
20 powers, and powers necessary or proper to carry out fully the
21 provisions of this part including:

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

23 (1) To have perpetual succession.

24 (2) To sue and be sued in the name of the district in all actions
25 and proceedings in all courts and tribunals of competent
26 jurisdiction.

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

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

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

32 (6) To have the power and right to disseminate information
33 concerning the rights, properties, activities, plans, and proposals
34 of the district.

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

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

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

11 (10) To carry on technical and other investigations of any kind
12 necessary or convenient for the accomplishment of water resource
13 management authorized by this part. Through inspection warrants,
14 the district has the right of access through its authorized
15 representatives to all properties within the district that impact or
16 relate to groundwater, watercourses, or streams flowing in or into
17 the district.

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

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

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

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

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

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

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

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

4 (8) To participate in the market of credits or other benefits
5 related to reduction of environmental impacts or improved
6 integrated resource management.

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

15 (10) To acquire and to hold the capital stock of any mutual water
16 company or corporation, domestic or foreign, owning water or
17 water rights, canals, waterworks, franchises, concessions, or rights,
18 when the ownership of stock is necessary to secure a water supply
19 required by the district, or any part thereof, upon the condition that
20 when holding stock, the district is entitled to all the rights, powers,
21 and privileges, and is subject to all the obligations and liabilities
22 conferred or imposed by law upon other holders of stock in the
23 same company.

24 (11) To cooperate with, enter into, and to do any acts necessary
25 for the proper performance of any agreement with the state, the
26 United States, any state, city, county, district of any kind, public
27 or private corporation, association, firm, or individual, for the
28 ownership, joint acquisition, leasing, disposition, use, management,
29 construction, installation, extension, maintenance, repair, or
30 operation of any rights, works, or other property of a kind that
31 might lawfully be acquired or owned by the district, or for the
32 lawful performance of any power or purpose of the district provided
33 for in this part.

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

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

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

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

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

6 (5) To take actions, including ~~imposing restrictions or~~ requiring
7 inspections *or imposing restrictions*, to prevent damage to water
8 supply structures or water quality from any cause, including, but
9 not limited to, invasive species, harmful organisms, or harmful
10 substances.

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

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

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

21 (9) To take any action necessary or appropriate to litigate or
22 resolve water rights, water quality, or water use issues, within or
23 outside the district, including, but not limited to, enforcement
24 actions to prevent the wasteful use of water, ~~harm to water~~, or
25 interference with beneficial uses of water within the district.

26 ~~(10) To enact regulations affirmatively managing the watersheds~~
27 ~~within the district, to protect the right of the district to manage the~~
28 ~~water supplies of the district for the benefit of its inhabitants,~~
29 ~~including reasonable regulation of existing and proposed wells,~~

30 *(10) To enact regulations to protect against the diminution of*
31 *the water supplies of the district for the benefit of its inhabitants,*
32 *including reasonable regulation of existing and proposed wells*
33 *against acts destructive of the watershed, and of exportation of*
34 *water from the district, or from a zone, or between district charge*
35 *zones. Consistent with the intent to provide sustainable integrated*
36 *water management for the good of the county and the region as a*
37 *whole, the regulations shall permit district-approved*
38 *interoperability efforts and emergency response efforts.*

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

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

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

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

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

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

22 (e) All of the following powers with regard to protection of
23 water quality:

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

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

(3) To hold the contaminator or polluter liable for costs if, pursuant to paragraph (2), the district provides a replacement water supply or causes contamination or pollution to be cleaned up or contained, the effects abated, or other necessary remedial action is taken to address actual or threatened contamination or pollution. The person or entity causing or threatening to cause that contamination or pollution is liable to the district to the extent of the reasonable costs actually incurred, including direct staff response costs and overhead. The amount of the costs, together with court costs and reasonable attorney's fees are recoverable in a civil action by the district or other means. In such an action, the necessity for the replacement water supply, cleanup, containment, abatement, remedial work, public notification, or educational public outreach and the reasonableness of the costs shall be presumed, and the defendant shall have the burden of proving that the action was not necessary or the costs were not reasonable.

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

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

(5) To prevent land surface subsidence, where credible, fact-based scientific or engineering evidence demonstrates that water quality is in danger of being adversely affected.

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

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

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

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

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

8 (3) To provide information, resources, and consultation to the
9 agencies responsible for land-use decisions or actions that may
10 affect the health, stability, or function of watercourses, watersheds,
11 groundwater basins, riparian functions, habitat, and natural
12 resources within the district, while respecting the authority of those
13 agencies to make final land use decisions.

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

17 (5) To implement environmental enhancement activities and
18 mitigation and monitoring of natural resources.

19 (6) To enact regulations to protect water resources stewardship
20 facilities from activities that could diminish their ability to achieve
21 their purpose.

22 (g) All of the following financial powers:

23 (1) To establish and collect ~~rates~~ *fees* and charges for the purpose
24 of paying any obligation of the district, and to carry out any of the
25 purposes of this part.

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

33 (3) If a drainage or flood control problem is referred to the
34 district by the County of Santa Clara, or any incorporated city in
35 the county, as authorized by the Subdivision Map Act (Division
36 2 (commencing with Section 66410) of Title 7 of the Government
37 Code) or otherwise, to require the installation of drainage or flood
38 control improvements necessary or convenient for needs of the
39 zone, including, but not limited to, residential, subdivision,

1 commercial, and industrial drainage and flood control needs.

2 Revenues derived under this section shall be used for the following:

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

6 (B) To reduce the principal or interest of any bonded
7 indebtedness thereof.

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

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

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

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

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

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

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

29 100053. (a) This chapter shall not be construed to supersede
30 the land use planning authority of a city, county, or any other entity
31 to which land use planning authority has been delegated.

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

36
37 CHAPTER 4. BOARD OF DIRECTORS AND GOVERNANCE

38
39 100060. The board of directors shall consist of seven members,
40 one elected from each of seven electoral districts. The term of

1 office of a director shall be four years beginning at noon on the
2 first Friday in December following his or her election. A director
3 shall hold office until a successor is elected or appointed and
4 qualified.

5 100061. (a) On or before June 30, 2010, the board shall adopt
6 a resolution that divides the district into seven electoral districts
7 and that assigns a number to each district.

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

10 (c) In establishing the boundaries of the electoral districts, the
11 board may give consideration to the topography, geography,
12 cohesiveness, contiguity, integrity, compactness of territory, and
13 the community of interests of the electoral districts.

14 (d) The board shall review the boundaries of the seven electoral
15 districts before November 1 of the year following the year in which
16 each decennial census is taken. The board shall adjust the
17 boundaries if determined to be necessary in accordance with
18 Section 22000 of the Elections Code.

19 100061.5. (a) The first elections for the first, fourth, sixth, and
20 seventh electoral districts established pursuant to Section 100061
21 shall be conducted at the November 2, 2010, statewide general
22 election. The first elections for the second, third, and fifth electoral
23 districts established pursuant to Section 100061 shall be conducted
24 at the November 6, 2012, statewide general election.

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

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

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

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

38 (d) The directors elected pursuant to this section shall exercise
39 their independent judgment on behalf of the interests of the entire

1 district, including the residents, property owners, and the public
2 as a whole in furthering the purposes and intent of this part.

3 (e) Except as otherwise provided in this part, the individuals
4 who serve on the board of directors on December 31, 2010, in
5 accordance with the Santa Clara Valley Water District Act (Chapter
6 1405 of the Statutes of 1951, as amended) shall continue to serve
7 on the board established by this part. Accordingly, directors from
8 the second, third, and fifth supervisorial districts elected in 2008
9 serve until noon on December 7, 2012, after the first elections for
10 those seats are held.

11 100062. In order to encourage greater participation in the
12 political process, the board has discretion to uniformly authorize
13 partial or full payment of fees associated with candidate ballot
14 statements.

15 100063. Any vacancy in the office of a director shall be filled
16 pursuant to Section 1780 of the Government Code. Any director
17 appointed to fill a vacancy in the office of a director shall be a
18 qualified elector in the electoral district he or she will represent.

19 100063.5. (a) While serving as a member of the board of
20 directors, and for one year immediately following the end of the
21 director's term of office, no director shall seek or accept
22 compensated employment with the district.

23 (b) The board, by ordinance, shall adopt regulations governing
24 the activities of persons who lobby the district. Those regulations
25 shall include provisions requiring registration of lobbyists,
26 reporting requirements governing the activities of lobbyists and
27 communications with board members, and disclosure by directors
28 of contact with lobbyists prior to voting on matters related to the
29 contact. This ordinance shall be adopted no later than July 1, 2010.

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

36 (2) Paragraph (1) does not prohibit a director from making
37 general inquiries about the status of a particular procurement, or
38 from providing a member of the public with information about the
39 appropriate staff contact concerning procurement of goods and
40 services by the district.

(d) The board shall not authorize severance pay for a board-appointed employee of the district when the employee voluntarily separates from district employment. For purposes of this subdivision, “severance pay” does not include any otherwise lawful payment required to be paid by the district under a preexisting employment agreement or under a separation and release agreement resolving a claim or claims made or threatened to be made against the district. The board shall not agree to amend an employment contract after the employee announces or requests a voluntary separation, except upon a board determination, in open session, that an adjustment in compensation is required to retain the employee and is in the best interest of the district.

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

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

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

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

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

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

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

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

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

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

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

8 (4) This subdivision does not require the public release of any
9 document that is exempt from disclosure pursuant to the California
10 Public Records Act (Chapter 3.5 (commencing with Section 6250)
11 of Division 7 of Title 1 of the Government Code) or any other
12 provision of law.

13 100066. (a) The board, in accordance with Chapter 2
14 (commencing with Section 20200) of Division 10, may authorize
15 each director to receive compensation for attendance at meetings
16 of the board and committees and for other service rendered as a
17 director. A director shall not receive total compensation, including
18 stipends, expenses, or benefits, in excess of the amount allowed
19 by law. Reimbursement for expenses incurred by directors is
20 subject to Sections 53232.2 and 53232.3 of the Government Code.

21 (b) On a quarterly basis, a report of the expense reimbursements
22 to each director shall be placed on an open session board meeting
23 agenda for review and a determination by the board regarding
24 whether the expense reimbursements comply with the board's
25 reimbursement policies adopted pursuant to Section 53232.3 of
26 the Government Code. Only expenses in compliance with those
27 policies may be reimbursed by the district.

28 100067. The board, by resolution, may establish or eliminate
29 advisory boards, committees, or commissions as in its judgment
30 will serve the best interests of the district. At least one such
31 advisory body shall include representation by users of agricultural
32 water. *To the extent allowed by conflict of interest laws,*
33 *representation by public water utilities, as defined in Section 216*
34 *of the Public Utilities Code, that operate within the district's*
35 *borders shall be included on at least one such advisory body.* The
36 board may assign duties consistent with this part. The composition
37 of an advisory board, committee, or commission shall be specified
38 in the creating resolution, and each board, committee, or
39 commission is required to have at least three members. Members
40 serve at the pleasure of the board.

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

4 100069. The board of directors shall serve as the governing
5 body of the district. The board may take action by motion,
6 resolution, or ordinance. Unless otherwise provided in this part,
7 the affirmative vote of a majority of the board is required to pass
8 a motion, resolution, or ordinance.

9 100070. A motion is adopted when carried by the required
10 majority vote.

11 100071. If more formality than a motion is required or desired
12 to authorize board action, a resolution recorded in the minutes of
13 the meeting may be adopted. A resolution is adopted when carried
14 by the required majority on a rollcall vote.

15 ~~100072. (a) For those matters of significant legislative~~
16 ~~importance that require both formality and the need to obtain input~~
17 ~~from the public, the board is authorized to take action through~~
18 ~~adoption of an ordinance. An ordinance is subject to referendum~~
19 ~~by the electorate.~~

20 ~~(b) A public hearing, noticed pursuant to Section 6066 of the~~
21 ~~Government Code, is a prerequisite to adoption of an ordinance.~~
22 ~~To be valid, an ordinance shall be enacted by a majority on a~~
23 ~~rollcall vote documented in the minutes of the board meeting. If~~
24 ~~publication is required under state law, only the title and summary~~
25 ~~of the ordinance shall be published. An ordinance shall be in full~~
26 ~~force and effect 30 days after adoption, or at a later time specified~~
27 ~~in the ordinance.~~

28 ~~(c) Prior to initiating the required public process for adoption~~
29 ~~of an ordinance, the district shall complete relevant studies, as~~
30 ~~necessary, to properly frame the issues for public input.~~

31 ~~(d) The board shall adopt an ordinance establishing an~~
32 ~~administrative appeal process through which a person aggrieved~~
33 ~~by a decision of the district may appeal that decision to the board~~
34 ~~of directors.~~

35 ~~(e) It is a misdemeanor for any person to violate any district~~
36 ~~ordinance adopted pursuant to this section from and after the~~
37 ~~effective date of the ordinance. The violation is punishable by a~~
38 ~~fine not to exceed five hundred dollars (\$500), or imprisonment~~
39 ~~in the county jail not to exceed 30 days, or both the fine and~~
40 ~~imprisonment.~~

1 ~~(f) Any violation or threatened violation of a district ordinance~~
2 ~~may also be enjoined by civil action.~~

3 100072. (a) When the district intends a governmental exercise
4 of authority over the public through establishment of rules or
5 regulations that require compliance or that prohibit actions or
6 conduct, the board shall exercise that authority by ordinance.

7 (b) The board shall follow a public process reasonably
8 calculated to give those persons interested in the adoption,
9 amendment, or repeal of an ordinance adequate information and
10 an opportunity to be heard. The process shall include all of the
11 following procedural requirements:

12 (1) The ordinance shall be drafted in plain language.

13 (2) The agenda item proposing consideration of adoption or
14 modification of an ordinance shall include the following:

15 (A) A statement of the necessity for the action.

16 (B) Identification of each technical, theoretical, or empirical
17 study on which the board relied.

18 (C) Facts, evidence, or other information relative to the
19 anticipated economic impact of the action.

20 (D) Efforts made to avoid duplication of other entities'
21 jurisdiction.

22 (3) The ordinance or modification shall be based upon credible,
23 fact-based science or engineering information concerning the need
24 for, and consequences of, district action.

25 (4) The agenda item and all supporting information shall be
26 posted on the district's Internet Web site.

27 (5) The agenda item shall be mailed to those who have filed a
28 request to be notified, and to those persons or entities the district
29 determines should be notified because of likely interest in the
30 subject matter.

31 (c) Where merited due to the complexity or magnitude of the
32 proposed adoption or modification of an ordinance, prior to
33 noticing the public hearing, the district may involve interested
34 parties in public discussions of the proposal.

35 (d) A public hearing, noticed pursuant to Section 6066 of the
36 Government Code, is a prerequisite to adoption of an ordinance.
37 To be valid, an ordinance shall be enacted by a majority on a
38 rollcall vote documented in the minutes of the board meeting. If
39 publication is required under state law, only the title and summary
40 of the ordinance shall be published. An ordinance shall be in full

1 force and effect 30 days after adoption, or at a later date specified
2 in the ordinance.

3 (e) Prior to initiating the required public process for adoption
4 of an ordinance, the district shall complete relevant studies, as
5 necessary, to properly frame the issues for public input.

6 (f) It is a misdemeanor for any person to violate any district
7 ordinance adopted pursuant to this section from and after the
8 effective date of the ordinance. The violation is punishable by a
9 fine not to exceed five hundred dollars (\$500), or imprisonment
10 in the county jail not to exceed 30 days, or both the fine and
11 imprisonment.

12 (g) Any violation or threatened violation of a district ordinance
13 may also be enjoined by civil action.

14 (h) An ordinance is subject to referendum by the electorate.

15 100073. Prior to adoption of a regulation, the board shall make
16 a finding that the public necessity requires the action, and the
17 resolution or ordinance enacted shall state the ultimate facts upon
18 which the finding is based.

19 100074. Any person aggrieved by the refusal to issue a permit,
20 by the terms of a permit, or by any district decision made under
21 an ordinance shall have the right of review, as follows:

22 (a) The aggrieved person may file a written request to have the
23 district decision reviewed by the chief executive officer. The request
24 shall include the specific decision being challenged, and the basis
25 upon which the decision is being challenged.

26 (b) A review meeting to be presided over by the chief executive
27 officer, or his or her designee, shall be scheduled within 30 days
28 of the request. Written notice of the date, place, and time of the
29 review meeting shall be given at least 14 days in advance unless
30 the applicant waives the 14day requirement.

31 (c) The review by the chief executive officer, or designee, shall
32 take place in an open public forum. Notice of the proceeding shall
33 be posted on the district's Internet Web site. The public shall be
34 provided an opportunity to speak on the matter at the review
35 meeting.

36 (d) The chief executive officer, or designee, shall issue a decision
37 within 30 days of the completion of the review.

38 100075. Any person who has exercised the right to review
39 pursuant to Section 100074 who is unsatisfied with the results of

1 the review shall have the right of appeal to the board of directors,
2 as follows:

3 (a) An appeal shall be in writing and submitted to the clerk of
4 the board within 14 days of the issuance of the review decision.
5 The appeal shall specify the basis for appealing the decision.

6 (b) The clerk of the board shall set the appeal for hearing at a
7 public meeting and shall provide the appellant with 14 days
8 advance notice in writing of the time and place set for the hearing.
9 The notice of the hearing shall also be made public.

10 (c) At the hearing, both the appellant and district staff may
11 present written documentation and verbal testimony. The board
12 may ask questions.

13 (d) At the close of the hearing, the board shall determine
14 whether to uphold, modify, or reverse, in whole or in part, the
15 review decision. Minutes of the hearing, including the decision
16 and the vote of the board, shall be made public.

17 (e) The decision of the board shall be final and conclusive.

18 100075.5. A person aggrieved by any decision of the board
19 not covered by Section 100075 may address the board on the
20 matter in the public comment portion of each scheduled board
21 meeting.

22 ~~100074.~~

23 100076. (a) The board may appoint and employ any officers
24 and positions as desired and prescribe their duties and set their
25 compensation.

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

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

33 ~~100075.~~

34 100077. At the option of the board, employees appointed by
35 the board may be required to execute public official bonds before
36 entering upon the duties of their employment. The district board
37 may opt for the district to pay for the bonds.

38 ~~100076.~~

39 100078. Except as otherwise provided by this part or other
40 applicable law, Part 3 (commencing with Section 900) and Part 4

(commencing with Section 940) of Division 3.6 of Title 1 of the Government Code govern claims for money or damages against the district.

~~100077.~~

100079. In order to determine the legality of the district's existence, or of any contract entered into by the district, the district may institute a proceeding in the superior court of this state, pursuant to Section 860 of the Code of Civil Procedure. The State of California shall be a required defendant in the action, and consent to be named a defendant is given.

CHAPTER 5. ZONES

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

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

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

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

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

(C) Describes the reasons for forming the zone.

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

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

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

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

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

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

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

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

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

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

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

3
4 CHAPTER 6. FINANCIAL MATTERS
5

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

14 100091. (a) On or before June ~~15~~ 1 of each year, the board
15 shall hold a noticed public meeting to hear comments from the
16 public regarding the board's proposed budget.

17 (b) The board shall annually review its financial reserves and
18 its reserve management policy.

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

21 100092. The board may establish reserves as the board deems
22 appropriate.

23 100095. (a) The district may charge a fee to cover the cost of
24 any service that the district provides, or the cost of enforcing any
25 regulation for which the fee is charged. A fee shall not exceed the
26 costs reasonably borne by the district in providing the service or
27 enforcing the regulation for which the fee is charged.

28 (b) The district may charge district residents or taxpayers a fee
29 authorized by this section that is less than the fee that it charges
30 nonresidents or nontaxpayers.

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

35 100096. Prior to imposing or increasing any fee for
36 property-related services, the district shall comply with the
37 requirements of Article XIII D of the California Constitution.

38 100097. The district may expend its share of property tax
39 revenue allocated pursuant to subdivision (b) of Section 93 of the
40 Revenue and Taxation Code to pay for both of the following:

1 (a) The general administrative costs and expenses, including
2 maintenance and operation of established works of the district, to
3 carry out any of the objects or purposes of this part of common
4 benefit to the district.

5 (b) The costs and expenses of constructing or extending any or
6 all works established within or on behalf of a zone within the
7 district if revenue used for that purpose is replaced.

8 100098. The district may impose benefit assessments to pay
9 the cost of carrying out any of the objects or purposes of this part
10 on behalf of a zone or zones, including constructing, maintaining,
11 managing, operating, extending, repairing, or otherwise improving
12 any work of improvement, implementing programs or projects, or
13 financing any of the foregoing, consistent with Article XIII D of
14 the California Constitution. These benefit assessments include,
15 but are not limited to, benefit assessments imposed pursuant to
16 any of the following:

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

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

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

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

28 100099. The district may impose special taxes, consistent with
29 Article XIII C of the California Constitution, pursuant to the
30 following:

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

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

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

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

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

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

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

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

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

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

1 100103. (a) If the board determines that it is necessary to incur
2 a general obligation bond indebtedness for the acquisition or
3 improvement of real property, the board may proceed pursuant to
4 Article 11 (commencing with Section 5790) of Chapter 4 of
5 Division 5 of the Public Resources Code.

6 (b) If the board determines that a bonded indebtedness should
7 be incurred to pay the cost of any project in any zone or zones, the
8 board, by resolution, may determine and declare the respective
9 amounts of bonds to be issued to raise the amount of money
10 necessary for each project and the denomination and the maximum
11 rate of interest of the bonds. In determining each amount of bonds
12 and the amount of money necessary for each project, the board
13 may include in its determination all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 100104. (a) The board, by resolution, shall prescribe the form
6 of bonds, which shall include a designation of the zones affected,
7 and of the interest coupons attached thereto. Bonds shall be payable
8 annually or semiannually at the discretion of the board each and
9 every year on a day and date, and at a place to be fixed by the
10 board, and designated in the bonds, together with the interest on
11 all amounts unpaid on the date until the whole of the indebtedness
12 has been paid.

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

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

1 100105. The board may issue and sell the authorized bonds
2 for the uses and purposes of the zone or zones. The proper record
3 of the transactions shall be placed upon the books of the district,
4 and the respective zone funds shall be applied exclusively to the
5 purposes and objects described in the ordinance calling the special
6 bond election.

7 100106. Any bonds issued under this part and the interest
8 thereon shall be paid by revenue derived from rates or an annual
9 tax or assessment, imposed in accordance with this part. No zone,
10 nor the property in the zone, is liable for the share of bonded
11 indebtedness of any other zone; nor shall any moneys derived from
12 taxation or assessment in any of the several zones be used in
13 payment of principal or interest or otherwise of the share of bonded
14 indebtedness chargeable to any other zone, except in the case of
15 joint projects by participating zones.

16 100107. To the extent not covered by water rates, the board
17 shall impose a tax or assessment each year sufficient to pay the
18 interest and that portion of the principal of the bonds that is due
19 or to become due before the time for making the next general tax
20 levy. Taxes or assessments shall be imposed and collected in the
21 respective zones of issuance together with, and not separately from,
22 taxes for county purposes. Collected funds shall be paid into the
23 county treasury to the credit of the zone of payment, and be used
24 for the payment of the principal and interest on the bonds, and for
25 no other purpose. The county treasurer shall pay the principal and
26 interest on the bonds in the manner provided by law for the
27 payment of principal and interest on bonds of the county.

28 100108. The bonds of the district issued for any zone or zones,
29 are legal investments for all trust funds, and for the funds of all
30 insurance companies, banks, both commercial and savings, and
31 trust companies, and for the state school funds, and whenever any
32 money or funds may by law be used as security for the performance
33 of any act, or be invested in bonds of cities, cities and counties,
34 counties, school districts, or municipalities in the state, the money
35 or funds may be invested in the bonds of the district.

36 100109. All bonds issued by the district under the provisions
37 of this part shall be free and exempt from all taxation within the
38 state.

39 100110. Any improvement for which bonds are approved for
40 issuance in accordance with this part shall be made in accordance

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

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

16 100112. (a) The board may finance any enterprise and issue
17 revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter
18 6 (commencing with Section 54300) of Part 1 of Division 2 of
19 Title 5 of the Government Code) for the purpose of financing the
20 construction, reconstruction, replacement, acquisition, or
21 improvement of any facility or facilities necessary or convenient
22 for the storage, treatment, including reclamation, transmission, or
23 distribution of water for beneficial use within the district and for
24 the purpose of generation or transmission of electricity. This section
25 does not apply to the acquisition of any facility or facilities already
26 employed in any public utility use, unless the acquisition of the
27 facility or facilities is by mutual agreement between the district
28 and the owner of the property.

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

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

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

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

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

(1) The date of the election.

(2) The proposition to be submitted.

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

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

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

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

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

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

CHAPTER 7. GROUNDWATER MANAGEMENT

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

(b) As an integral part of the district's comprehensive integrated water management program, the district shall conjunctively manage

1 its groundwater and ~~surface water resources~~ *other water supplies*
2 to optimize water supply reliability for the benefit of the county
3 as a whole and to protect infrastructure from subsidence. This
4 includes actively recharging groundwater basins using local and
5 imported water supplies as well as in-lieu recharge methods,
6 including, but not limited to, treated water deliveries, recycled
7 water development, water banking, and water conservation
8 programs.

9 100121. The district, by ordinance, may take any of the
10 following actions in order to reduce or eliminate ~~potential future~~
11 groundwater overdraft, or to improve or protect the quality and
12 sustainability of groundwater supplies within the district:

13 (a) Impose reasonable registration and measurement device
14 requirements and performance standards on water-producing
15 facilities to minimize impact on water resources.

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

19 (c) Require conservation practices and measures, including the
20 imposition of rate structures to promote water conservation, such
21 as tiered rates or other methods aimed at discouraging the wasteful
22 use of water. However, a water retailer or other entity that has
23 adopted, *and is implementing*, an urban water management plan
24 pursuant to Part 2.6 (commencing with Section 10610) of Division
25 6, or an equivalent water conservation plan, that meets standards
26 for water conservation adopted by the Department of Water
27 Resources or ~~any other state agency, and any other applicable~~
28 ~~water conservation standards established by state or federal law~~
29 ~~for continued delivery of imported water to the district, shall not~~
30 ~~be another state agency responsible for water resources, shall not~~
31 ~~be~~ subject to additional water conservation requirements imposed
32 by the district, *unless those additional requirements are a*
33 *precondition for the continued delivery of imported water to the*
34 *district as established by state or federal law.*

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

38 (e) Regulate groundwater extractions to the extent necessary to
39 prevent groundwater overdraft and minimize the risk of land
40 subsidence.

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

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

(b) Information describing *in detail* the present and future water requirements of the district.

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

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

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

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

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

(b) Groundwater management charges imposed pursuant to this part are declared to be in furtherance of district activities in the

1 management, protection, and augmentation of the water supplies
2 of the district, including reasonably related watershed stewardship
3 activities, necessary for the public health, welfare, and safety of
4 the people of the district and this state. The groundwater
5 management charges may be imposed upon the owner or operator
6 of water-producing facilities within a zone ~~for the benefit of all~~
7 ~~who~~ *that* rely directly or indirectly upon the groundwater supplies
8 of the zone, water imported into the zone, or water management
9 facilities or programs within the zone or that benefit the zone.

10 (c) In recognition of the public policy of the state that agriculture
11 helps to preserve land in its natural, scenic, and historic open-space
12 condition, which is an important environmental asset, and in
13 recognition of the greater likelihood of return flows, provision of
14 permeable surfaces to facilitate groundwater recharge, reduced
15 water usage on a per acre basis, greater water supply flexibility,
16 reduced water service and infrastructure costs, and other factors
17 that provide the basis for a differential rate, the board, by resolution
18 supported by substantial evidence, and consistent with Article
19 XIID of the California Constitution, may impose a different rate
20 for water to be used for agricultural purposes.

21 (d) Groundwater management charges shall be calculated on
22 the basis of groundwater production statements.

23 100124. The proceeds of groundwater management charges
24 imposed and collected upon the production of water from
25 groundwater supplies within the district may be used to pay costs,
26 including staff costs, for the following conjunctive-use *management*
27 activities:

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

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

35 (c) Managing water supplies for the ~~current and future~~ *longterm*
36 benefit of the district, including demand management activities
37 and watershed stewardship activities related to the preservation
38 and improvement of the quantity and quality of groundwater
39 supplies in the zone in which the groundwater management charges
40 are imposed.

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

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

100125. If a new or increased *property-related* groundwater management charge or fee is proposed, the district shall ~~provide~~ *comply with the requirements of Article XIII D of the California Constitution, including providing* written notice by mail to all record owners within the zone subject to the charge or fee. The notice shall contain all of the following:

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

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

(c) The reason for the charge or fee.

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

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

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

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

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

100128. (a) Prior to the end of the fiscal year, based on the findings and determinations from the hearing, if a hearing is required under Section 100125, and in accordance with the budget for that year, the board shall determine whether an existing groundwater management charge or fee should remain the same, be reduced, or increased. A previously approved charge remains in effect until reduced or increased. The anticipated revenues to be derived from the charge shall not exceed the funds anticipated to be needed for groundwater management services provided, including prudent short- and long-term water supply and conservation management, operations, maintenance, financing, including prudent reserves adopted consistent with a publicly noticed board-adopted reserve policy and capital expenditures pursuant to this part.

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

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

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

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

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

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

1 (c) If the board determines that an off-cycle imposition or
2 adjustment of the groundwater management charge is necessary
3 ~~to maintain the financial health of the district~~ *adapt to changes in*
4 *the cost of service*, the board may impose or adjust any groundwater
5 management charge, or the rates of any charges, on or before
6 January 1 of each year pursuant to the following process:

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

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

12 100129. Upon board adoption of a groundwater management
13 charge, the district shall give notice stating the board-approved
14 applicable rate or rates per acre-foot of water production for the
15 groundwater management charge in the applicable zone. The notice
16 shall indicate whether the owner or operator will be invoiced, or
17 if the district shall rely on a required self-reported water production
18 statement. The notice may be sent by postal card or by other
19 first-class mail with postage prepaid by the district to each record
20 owner of a water-producing facility as disclosed by the records of
21 the district.

22 100130. (a) The groundwater management charge is due and
23 payable to the district on or before the last date upon which the
24 water production statements are required to be filed.

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

27 (c) The district may impose an annual administrative charge for
28 a water producing facility. However, that charge shall not exceed
29 the estimated annual cost to the district of maintaining and
30 administering the account associated with the facility.

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

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

37 100131. (a) If any owner or operator of a water-producing
38 facility fails to register a water-producing facility, or fails to file
39 a water production statement if required by Section 100121, the
40 district, in addition to charging interest, shall assess an

1 administrative charge to recover the costs of collection, and a
2 penalty charge against the owner or operator in an amount of 10
3 percent of the amount found by the district to be due.

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

6 100132. (a) Upon good cause shown, an amended statement
7 of water production may be filed or a correction of the records
8 may be made at any time within one year of filing the water
9 production statement.

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

CHAPTER 8. PROPERTY

18
19
20
21 100140. The district has the right-of-way for the location,
22 construction, and maintenance of water utility and flood protection
23 facilities, and water resources stewardship facilities in, over, and
24 across public lands of the state, not otherwise disposed of or in
25 use. The right-of-way granted is limited to the length and width
26 necessary for the construction and protection of those facilities. If
27 the selection of a right-of-way is made by the district, it shall
28 transmit to the State Lands Commission, the Controller, and the
29 recorder of the county in which the selected lands are situated, a
30 duly verified plat of the lands so selected, giving the extent and
31 the uses for which the same is claimed or desired. If the State Lands
32 Commission approves the selection, it shall endorse its approval
33 upon the plat and issue the district a permit to use the right-of-way
34 and lands.

35 100141. The legal title to all property acquired under this part
36 immediately and by operation of law vests in the district, and shall
37 be held by the district, in trust, for the uses and purposes set forth
38 in this part.

39 100142. (a) The board, by resolution, may determine that any
40 real property or interest in real property is no longer necessary to

1 be retained for district uses or purposes. The district may thereafter
2 sell, lease, or otherwise dispose of the property, including, but not
3 limited to, the following types of property:

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

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

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

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

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

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

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

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

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

1 CHAPTER 9. PLANNING AND APPROVAL OF CAPITAL PROJECTS

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

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

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

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

20 (1) For the common benefit of the district as a whole.
21 (2) For the common benefit of two or more but less than all
22 zones.

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

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

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

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

30 (2) A general description of the project.

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

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

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

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

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

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

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

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

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

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

34 35 CHAPTER 10. ENFORCEMENT 36

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (b) If the district determines that a public nuisance exists, and
37 must be abated, the district, by certified mail, shall notify the
38 current record owner of the property of the need to abate the public
39 nuisance and that it is the intention of the district to record a notice
40 of violation of the ordinance.

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

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

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

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

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

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

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

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

38 (k) The district shall record notice of the lien, particularly
39 identifying the property on which the nuisance was abated and the
40 amount of the lien, and naming the owner of record of the property,

1 in the office of the Santa Clara County Recorder within one year
2 after the first item of expenditures by the district or within 90 days
3 after the completion of the work, whichever occurs first. Upon
4 recordation of the notice of lien, the lien has the same force, effect,
5 and priority as a judgment lien, except that it attaches only to the
6 property described in the notice, and continues for 10 years from
7 the date of recording of the notice unless sooner released or
8 otherwise discharged.

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

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

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

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