

AMENDED IN SENATE MAY 1, 2012
AMENDED IN SENATE APRIL 18, 2012
AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1337

Introduced by Senator DeSaulnier
(Coauthor: Senator Hancock)
(Coauthor: Assembly Member Buchanan)

February 24, 2012

An act to create the Zone 7 Water Agency, and prescribing its boundaries, organization, operation, management, financing, and other powers and duties, to amend Section 2 of, and to repeal Section 36 of, the Alameda County Flood Control and Water Conservation District Act (Chapter 1275 of the Statutes of 1949), relating to water districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1337, as amended, DeSaulnier. Zone 7 Water Agency Act.

Existing law, the Alameda County Flood Control and Water Conservation District Act, establishes the Alameda County Flood Control and Water Conservation District and grants to the district authority relating to, among other things, flood control and stormwater. Under the district law, the Board of Supervisors of Alameda County serves as the Board of *Supervisors of* the Alameda County Flood Control and Water Conservation District.

The district law authorizes the board of the district to establish zones and provides for the formation of a zone lying, in whole or in part, in Pleasanton or Murray Townships. That zone is required to be governed by a board of 7 directors who are required to be elected by the voters residing within that zone.

This bill would ~~remove Zone 7 from the Alameda County Flood Control and Water Conservation District and instead create the Zone 7 Water Agency, as prescribed, with specified authorizations, powers, and duties. This bill would permit the Alameda County Local Agency Formation Commission to exclude some or all of the agency's territory from the boundaries of the district and would eliminate from the district act provisions relating to the governance of a zone lying, in whole or in part, in Pleasanton or Murray Townships.~~ This bill would authorize the agency to continue to impose any special taxes based upon assessed value or any other special taxes, assessments, or charges imposed by or on behalf of the former Zone 7, would authorize the agency to impose new special taxes or levy assessments, as prescribed, and would require any taxes or assessments to be levied and collected together with taxes for county purposes, as specified. This bill would also authorize the agency to designate the county treasury as its treasury, as prescribed.

By imposing new duties on a county, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. This act shall be known as the Zone 7 Water
2 Agency Act, and reads as follow:

3

4 ZONE 7 WATER AGENCY ACT

5

6 1. This act shall be known and may be cited as the Zone 7 Water
7 Agency Act.

8 2. (a) A flood control and water district called the Zone 7 Water
9 Agency is hereby created. This agency shall consist of all the
10 territory in the Counties of Alameda and Contra Costa generally
11 described as "Eastern Alameda County (the former Zone 7 of the
12 Alameda County Flood Control and Water Conservation District
13 which includes the City of Pleasanton, the former Murray

Township, and a portion of the former Washington Township) and the Dougherty Valley in the southern part of the City of San Ramon.”

(b) ~~Authority for providing~~ *The authority to provide flood protection that was granted to the western portion of Alameda County, including all other zones within the Alameda County Flood Control and Water Conservation District (Chapter by Chapter 1275 of the Statutes of 1949) shall stay with the Alameda County Flood Control and Water Conservation District and that authority 1949 remains unchanged by this act for the western portion of Alameda County, including all other zones within the district except Zone 7.*

(c) Pursuant to Section 56387 of the Government Code, the County of Alameda is hereby designated to be the principal county for the agency.

3. (a) The objects and purposes of this act are to provide regional flood control, water supply reliability, and groundwater management as follows, to provide for the control of the flood and storm waters of said district and the flood and storm waters of streams that have their source outside of said district, but which streams and the flood waters thereof flow into said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining and causing to percolate into the soil within said district, or without such district, such waters, or to save or conserve in any manner all or any of such waters and protect from such flood or storm waters the watercourses, watersheds, harbors, public highways, life and property in said district, and to prevent waste of water or diminution of the water supply in, or exportation of water from said district and to obtain, retain and reclaim drainage, storm, flood and other waters for beneficial use in said district, and to engage in recreation activities incidental to and in connection with said purposes.

(b) It is the intent of the Legislature that the agency work collaboratively with other appropriate entities in the Counties of Alameda and Contra Costa in carrying out the purposes of this act.

4. As used in this act “agency” means the Zone 7 Water Agency.

5. The agency is hereby declared to be a body corporate and politic and, in addition to other powers granted by this act, may take action to carry out all of the following purposes:

1 (a) To have perpetual succession.

2 (b) To sue and be sued in the name of the agency in all actions
3 and proceedings in all courts and tribunals of competent
4 jurisdiction.

5 (c) To adopt a seal and alter it at its pleasure.

6 (d) (1) To acquire by grant, purchase, lease, gift, devise,
7 contract, construction, or otherwise, and to hold, use, enjoy, sell,
8 let, and dispose of real and personal property of every kind,
9 including lands, structures, buildings, rights-of-way, easements,
10 and privileges, and to construct, maintain, alter, and operate any
11 and all works or improvements, within or outside the agency,
12 necessary or proper to carry out any of the objects or purposes of
13 this act and convenient to the full exercise of its powers, and to
14 complete, extend, add to, alter, remove, repair, or otherwise
15 improve any works, or improvements, or property acquired by it
16 as authorized by this act.

17 (2) All land and rights-of-way previously held by the Alameda
18 County Flood Control and Water Conservation District within the
19 territory of the agency shall be transferred to the agency on the
20 effective date of this act without any cost to the agency or district
21 other than administrative costs incurred to transfer titles, which
22 shall be borne by the agency.

23 (e) (1) To store water in surface or underground reservoirs
24 within or outside of the agency for the common benefit of the
25 agency *and* to conserve, reclaim, recycle, treat, purify, distribute,
26 store, and manage water for present and future use within the
27 territory of the agency.

28 (2) To appropriate and acquire water and water rights, and
29 import water into the agency and to conserve within or outside the
30 agency, water for any purpose useful to the agency.

31 (3) To do any and every lawful act necessary to be done that
32 sufficient water may be available for any present or future
33 beneficial use or uses of the lands or inhabitants within the agency,
34 including, but not limited to, the acquisition, storage, treatment,
35 and distribution of water for irrigation, domestic, fire protection,
36 municipal, commercial, industrial, environmental, institutional,
37 recreational, and all other beneficial uses.

38 (4) To distribute, sell, or otherwise dispose of, outside the
39 agency, any waters not needed for beneficial uses within the
40 agency.

1 (5) To commence, maintain, intervene in, defend, or
2 compromise, in the name of the agency on behalf of the landowners
3 within the territory of the agency, or otherwise, and to assume the
4 costs and expenses of any action or proceeding involving or
5 affecting the ownership or use of waters or water rights within or
6 outside the agency, used or useful for any purpose of the agency
7 or of common benefit to any land situated within the territory of
8 the agency, or involving the wasteful use of water within the
9 territory of the agency. To commence, maintain, intervene in,
10 defend, and compromise, and to assume the cost and expenses of,
11 any and all actions and proceedings. Provided, however, that the
12 agency shall not have the power to intervene or take part in, or to
13 pay the costs or expenses of, actions or controversies between the
14 owners of lands or water rights that do not affect the interests of
15 the agency.

16 (6) To prevent interference with or diminution of, or to declare
17 rights in the natural flow of any stream or surface or subterranean
18 supply of water used or useful for any purpose of the agency or of
19 common benefit to the lands within the agency or to its inhabitants.

20 (7) To prevent unlawful exportation of water from the agency.

21 (8) To prevent contamination, pollution, or otherwise rendering
22 unfit for beneficial use the surface or subsurface water used or
23 useful in the agency, and to commence, maintain, and defend
24 actions and proceedings to prevent any interference with the
25 described waters as may endanger or damage the inhabitants, lands,
26 or use of water in, or flowing into, the agency.

27 (f) To control the floodwaters and stormwaters of the territory
28 of the agency and the floodwaters and stormwaters of streams that
29 have their sources outside of the territory of the agency, but that
30 flow into the territory of the agency, and to conserve these waters
31 for beneficial and useful purposes of the agency by spreading,
32 storing, retaining, and causing to percolate into the soil within or
33 without the territory of the agency, or to save or conserve in any
34 manner all or any of those waters and protect from damage from
35 those floodwaters or stormwaters the watercourses, watersheds,
36 public highways, life, and property in the territory of the agency,
37 and the watercourses outside of the territory of the agency of
38 streams flowing into the territory of the agency.

(g) (1) To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways, and other rights-of-way.

(2) To acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair, and improvement of the works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to that end, and for those purposes and uses, to acquire and to hold in the name of the state, the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of the stock is necessary to secure a water supply required by the agency or any part of the agency, upon the condition that when holding the stock, the agency shall be entitled to all the rights, powers, and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of the stock in the same company.

(3) To cooperate with, act in conjunction with, enter into, and to carry out any acts necessary for the proper performance of any agreement with the State of California, or any of its engineers, officers, boards, commissions, departments, or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments, or agencies or with any state, city and county, city, county, agency of any kind, public or private corporation, association, firm, or individual, or any number of them, for the ownership, joint acquisition, leasing, disposition, use, management, construction, installation, extension, maintenance, repair, or operation of any rights, works, or other property of a kind which might lawfully be acquired or owned by the agency or for the lawful performance of any power or purpose of the agency provided for in this act, including, but not limited to, the granting of the right to the use of any water or the right to store that water in any reservoir of the agency or to carrying that water through any tunnel, canal, ditch, or conduit of the agency or for the delivery, sale, or exchange of any water right, water supply, or water pumped, stored, appropriated, or otherwise acquired or secured for the use of the agency, or for controlling

1 drainage waters, or floodwaters or stormwaters of streams in or
2 running into or out of the territory of the agency, or for the
3 protection of life or property in the territory of the agency, or for
4 the purpose of conserving any waters for the beneficial use within
5 the agency, or in any other works, uses, or purposes provided for
6 in this act.

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

11 (h) To carry on technical and other necessary investigations,
12 make measurements, collect data, and make analyses, studies, and
13 inspections pertaining to water supply, water rights, control of
14 floodwaters and stormwaters, water quality, groundwater
15 management, or use of water both within and outside the agency
16 relating to watercourses or streams flowing in or into the agency
17 or groundwater located within or outside the territory of the agency.
18 For these purposes, the agency shall have the right of access,
19 through its authorized representatives, to all properties within the
20 agency and elsewhere relating to watercourses and streams flowing
21 in or into the agency. The agency, through its authorized
22 representatives, may enter upon these lands and make
23 examinations, surveys, and maps of the land.

24 (i) To prescribe, revise, and collect fees and charges for facilities
25 furnished or to be furnished to any new building, improvement,
26 or structure by the use of any flood control or storm drainage
27 system constructed or to be constructed in an area of the agency,
28 and whenever a drainage or flood control problem is referred to
29 the agency by the County of Alameda or the County of Contra
30 Costa, or any incorporated city in the County of Alameda or the
31 County of Contra Costa, to require the installation of drainage or
32 flood control improvements necessary or convenient, or both, for
33 needs of the area, including, but not limited to, residential,
34 subdivision, commercial, and industrial drainage and flood control
35 needs, that county and those cities being hereby authorized to refer
36 all drainage and flood control problems, arising under the
37 Subdivision Map Act (Division 2 (commencing with Section
38 66410) of Title 7 of the Government Code) or otherwise, to the
39 agency for solution. Revenues derived under this subdivision shall
40 be used for the acquisition, construction, reconstruction,

1 maintenance, and operation of the flood control or storm drainage
2 facilities of the area, to reduce the principal or interest of any
3 bonded indebtedness of the area, or to replace funds expended on
4 behalf of that area. Taxes and assessments imposed by or on behalf
5 of the former Zone 7 of the Alameda County Flood Control and
6 Water *Conservation* District may continue to be levied by the
7 agency upon any property in the agency for the purpose of making
8 payments to the state for the construction, maintenance, repair,
9 and operation and all other costs of the agency's prorated share of
10 state water facilities in accordance with this act.

11 (j) To incur indebtedness, and to issue bonds in accordance with
12 this act.

13 (k) To cause taxes or assessments to be levied and collected for
14 the purpose of paying any obligation of the agency, and to carry
15 out any of the purposes of this act, in accordance with this act.

16 (l) To make contracts, and to employ labor, and to carry out all
17 acts necessary for the full exercise of all powers vested in the
18 agency or any of the officers of the agency, by this act.

19 (m) To pay to any city, public agency, district, or educational
20 institution recognized under Chapter 3 (commencing with Section
21 94301) of Part 59 of the Education Code, a portion of the cost of
22 water imported by that city, public agency, the Zone 7 Water
23 Agency, or educational institution into, for use within, and of
24 benefit to the Zone 7 Water Agency.

25 (n) To establish designated floodways in accordance with the
26 Cobey-Alquist Flood Plain Management Act (Chapter 4
27 (commencing with Section 8400) of Part 2 of Division 5 of the
28 Water Code).

29 (o) To acquire, construct, maintain, operate, and install
30 landscaping or recreational facilities in connection with any dam,
31 reservoir, lake, flood control facility, or other works or property
32 owned or controlled by the agency.

33 ~~(p) To acquire, construct, maintain, operate and install, lease,~~
34 ~~and control facilities for the generation, transmission, distribution,~~
35 ~~sale, exchange, and lease of electric power~~ *engage in power*
36 *generation that is ancillary to the primary purpose of the agency*
37 *and to sell any power that is excess to the needs of the agency.*

38 (q) To fully regulate wells and to require the sealing of
39 abandoned or unused wells according to standards adopted by the
40 board by ordinance and designed to protect the groundwater

resources of the agency from contamination. Upon and following the effective date of the act, the County of Alameda or the County of Contra Costa or any incorporated city in the County of Alameda or the County of Contra Costa that is within the territory of the agency shall require all persons applying for any land development permit or approval to show the existence and location of any water well upon a map of the property that is the subject of the application. When a well is shown, the map shall be referred to the agency immediately upon receipt for review and investigation. If upon review and investigation the agency determines that the well or wells are to be sealed by the applicant pursuant to the ordinance, the determination shall be transmitted promptly to the applicant by the agency as a requirement in writing.

(r) On land acquired or used for the flood control, drainage, water supply, water conservation, and water resource purposes of this act:

(1) To plan, improve, operate, maintain, and keep in a sanitary condition, a system of public parks, playgrounds, beaches, swimming areas, and other facilities for public recreation, for the use and enjoyment of all inhabitants of the agency, as an incident to the carrying out of the projects of the agency.

(2) To construct, maintain, and operate any other amusement or recreational facilities, including picnic benches and tables, bathhouses, golf courses, tennis courts, or other special amusements and forms of recreation.

(3) To fix and collect reasonable fees for the use by the public of any special facilities, services, or equipment pursuant to paragraph (2).

(4) To adopt any rules and regulations as in the discretion of the board are necessary to the orderly operation and control of the use, by the public, of the lands and facilities for recreational purposes, provided, however, that the board shall not, for the purposes specified in this subdivision, interfere with control or operation of any existing public park, playground, beach, swimming area, parkway, recreational ground, or other public property, owned or controlled by any county, other district, or municipality, except with the consent of the governing body of that county, district, or municipality, and upon terms as may be mutually agreed upon between the board and that governing body.

(s) To design, construct, or maintain any levees, seawalls, groins, breakwaters, jetties, outlets, channels, harbors, basins, or other work pertaining thereto, in a manner as to render them adaptable and useful to shoreline, beach, harbor, navigation, park, or marina development or use, and to do this work in cooperation with any other public or quasi-public agency or corporation concerned with this development or use.

(t) To establish and maintain building setback lines along the banks of any river, creek, stream, or other waterway, in any case where the board determines that a setback line is necessary, provided that this authority is not exclusive of similar authority that may be exercised by any county or city and provided further that any development shall comply with the greatest setback line from a watercourse, for any of the following reasons:

- (1) To prevent impediment of the natural flow of water.
- (2) To protect life and property.
- (3) To prevent damage from flooding, bank caving, or erosion.
- (4) To prevent the pollution of waters.

(u) To import, control, distribute, store, spread, sink, treat, purify, recapture, and salvage any water, including, but not limited to, sewage or wastewater for the beneficial use or uses of the agency or its inhabitants or the owners of rights to waters within the territory of the agency. The agency may also acquire, construct, and operate facilities for the collection, treatment, and disposal of sewage, wastewater, and stormwater of the district and its inhabitants and may contract with any public agency concerning facilities and services.

6. (a) The agency may exercise the right of eminent domain, either within or outside of the agency, to take any property necessary to carry out any of the objects or purposes of this act. The agency in exercising this power ~~shall~~ *shall*, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles, of any public utility that is required to be moved to a new location. Nothing in this act ~~contained~~ shall be deemed to authorize the agency, or any person or persons, to divert the waters of any river, creek, stream, irrigation system, canal, or ditch, from its channel, to the detriment of any person; or persons having any interest in the river, creek, stream, irrigation system, canal, or ditch, or its waters, unless compensation

1 for the diversion is first provided in the manner ~~provided~~ *prescribed*
2 by law.

3 (b) The agency shall not exercise the right of eminent domain
4 to take any property, including water rights, appropriated to public
5 use by any existing city, county, or district. Nothing in this act
6 shall authorize the agency or any person to divert the waters of
7 any river, creek, stream, irrigation system, canal, or ditch, unless
8 compensation for the diversion is first provided in the manner
9 prescribed by law.

10 (c) Nothing in this act shall affect the plenary power of any
11 existing city, county, or municipal utility district to provide for a
12 water supply for the city, county, or municipal utility district, or
13 as affecting the absolute control of any properties of the city,
14 county, or municipal utility district necessary for the water supply.
15 Nothing in this act shall be construed as vesting any power of
16 control over the properties in the Alameda County Flood Control
17 and Water Conservation District, or over any officer of the district
18 or any person referred to in this act.

19 7. Except as otherwise provided in this act, an individual serving
20 on the board of directors of the Zone 7 Water Agency on December
21 31, 2012, shall continue to serve on the board of directors of the
22 agency established by this act and shall hold office until his or her
23 successor qualifies and takes office.

24 8. (a) The first election for all seven board positions shall be
25 conducted at the June 3, 2014, statewide primary election.
26 Notwithstanding subdivision (b), the four top votegetters at the
27 first election shall serve for terms of four years and the next three
28 top votegetters shall serve for terms of two years. The terms of all
29 seven directors elected pursuant to this subdivision shall commence
30 on July 1, 2014, at noon.

31 (b) The term of office for a director shall be four years. Except
32 as otherwise provided by this act, the term of office for each
33 director elected pursuant to subdivision (a) shall be four years
34 beginning at noon on the first day of July following his or her
35 election and the board member shall hold office until his or her
36 successor qualifies and takes office.

37 (c) Elections shall be conducted in accordance with the Uniform
38 District Election Law (Part 4 (commencing with Section 10500)
39 of Division 10 of the Elections Code), except as provided in

paragraph (1), and shall be consolidated with the direct primary election in each even-numbered year.

(1) The directors shall be elected at large and the time for the nomination of candidates and issuance of notices in connection with the nomination of candidates shall be at the times provided by general law for the nomination of candidates at the direct primary election.

(2) A candidate for the board of directors shall be a resident and qualified elector of the agency. A director shall continue to reside within the agency's territory during his or her term of office.

(d) The directors elected pursuant to this section are to exercise their independent judgment on behalf of the interests of the entire agency, including the residents, property owners, and the public as a whole in furthering the purposes and intent of this act.

9. A vacancy in the office of any director shall be filled for the unexpired term by appointment by a majority of the remaining members of the board of directors.

10. Any elected director may be recalled by the voters pursuant to Chapter 1 (commencing with Section 11000) of Division 11 of the Elections Code.

11. (a) Any ordinances, resolutions, or board policies adopted by the board of directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on or before December 31, 2012, shall remain in full force and effect and be binding on the agency unless specifically repealed by the board of directors of the agency.

(b) The board may adopt resolutions for the agency that shall be adopted, certified, and recorded.

(c) (1) The board may adopt ordinances for the agency. All ordinances shall be enacted only by rollcall vote entered into the proceedings of the board. An ordinance shall be in full force and effect immediately upon adoption, and shall be published once in full in a newspaper of general circulation, printed, published, and circulated in the agency within 10 days after adoption.

(2) Any violation or threatened violation of *an agency ordinance* may be enjoined by civil action.

(d) The board shall have *the* power to make and enforce all needful rules, regulations, standards, and procedures for the administration and government of the agency, and to appoint and employ all needful agents, superintendents, engineers, attorneys,

1 and employees to properly look after the performance of any work
2 provided for in this act and to operate and maintain those works,
3 and to perform all other acts necessary or proper to accomplish
4 the purposes of this act.

5 (e) The board may establish rules and regulations for the sale,
6 distribution, and use of water, which includes the power to restrict
7 the use of water during any emergency caused by drought,
8 emergency, or other threatened or existing water shortage and to
9 prohibit the wastage of agency water or the use of agency water
10 during those periods for any purpose other than household uses or
11 other restricted uses as may be determined to be necessary by the
12 agency and may prohibit use of water during those periods for
13 specific uses that the agency may from time to time find to be
14 nonessential.

15 (f) In addition to the officers and employees prescribed by the
16 act, the board may in its discretion appoint a president, a vice
17 president, a clerk, and any other officers and employees for the
18 board of directors or agency who, in its judgment, may be deemed
19 necessary, prescribe their duties, and fix their compensation. Those
20 officers and employees shall be employed, suspended, or their
21 employment terminated in accordance with an ordinance setting
22 forth rules, regulations, standards, and procedures for appointment,
23 suspension, and termination of employment.

24 12. (a) The agency shall have jurisdiction and power to employ
25 competent registered civil engineers and geologists to investigate
26 and carefully devise a plan or plans for projects, and to obtain
27 information in regard to projects, as may be deemed necessary or
28 useful for carrying out the purposes of this act.

29 (b) The board may direct any engineer or geologist described
30 in subdivision (a) to make and file reports from time to time
31 including the following information:

32 (1) A general description of a project, together with general
33 plans, profiles, cross sections, and general specifications relating
34 to the project.

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

38 (3) A map or maps that show the location of the project, and
39 lands, rights-of-way, easements, and property to be taken, acquired,

1 or injured in carrying out the project, and any other information
2 in regard to the project that may be deemed necessary or useful.

3 (4) An estimate of the cost of the project, including a statement
4 of the portion, if any, of cost advanced by the agency for the project
5 for which the agency proposes to reimburse itself from the proceeds
6 of sale of any bonds to be issued to pay for the project and an
7 estimate of the cost of lands, rights-of-way, easements, and
8 property proposed to be taken, acquired, or injured in carrying out
9 the project, and also of all incidental expenses likely to be incurred
10 in connection with the project, including legal, clerical,
11 engineering, superintendence, inspection, printing, and advertising,
12 and, if deemed advisable, a sum sufficient to pay interest on any
13 bonds proposed to be issued during all or any part of the period of
14 construction of the project and for no longer than 12 months
15 thereafter, and the total amount of bonds, if any, necessary to be
16 issued to pay for the project.

17 (c) Any engineer or geologist described in subdivision (a) shall
18 from time to time and as directed by the board file with the board
19 supplementary, amendatory, and additional reports and
20 recommendations, as necessity and convenience may require.

21 13. (a) Any abandoned or unused water well endangering the
22 public health and safety by creating a water contamination hazard
23 is a public nuisance. The board shall, by ordinance, establish
24 standards for what constitutes a water contamination hazard and
25 procedures for the declaration and abatement of public nuisance
26 consistent with this section.

27 (b) Whenever the agency determines that a public nuisance, as
28 defined, exists, it shall, by certified mail, notify the current record
29 owner of the property to abate the public nuisance and that it is
30 the intention of the agency to record a notice of violation of the
31 ordinance. The notice to the owner shall describe the violation and
32 specify a time, date, and place for a hearing, at which the owner
33 may present evidence to the board that a public nuisance does not
34 actually exist and that the notice should not be recorded. The notice
35 to the owner shall state that, unless the public nuisance is abated
36 within the time specified by the board following the hearing, the
37 agency may abate the public nuisance and the costs of the
38 abatement will be assessed against the property. The meeting shall
39 take place no sooner than 30 days and no later than 60 days from
40 *the* date of the certified mailing. If, within 15 days of receipt of

1 the notice, the owner of the real property fails to inform the agency
2 of his or her objection to recording the notice of violation, the
3 board shall record the notice of violation with the county recorder.
4 If, after the owner has presented evidence, it is determined that
5 there has been no violation, the agency shall mail a clearance letter
6 to the current owner of record. If, however, after the owner has
7 presented evidence, the board determines that a violation has in
8 fact occurred, the board shall record the notice of violation with
9 the county recorder. The notice of violation, when recorded, shall
10 be deemed to be constructive notice of the violation to all
11 successors in interest in the property. The county recorder shall
12 index the names of the fee owners in the general index.

13 (c) If the board determines, at the conclusion of the hearing,
14 that a public nuisance actually exists, the board shall order the
15 property owner to abate the public nuisance within a specified
16 time.

17 (d) If the public nuisance is not abated within the time specified
18 in the order of the board following a hearing, the agency may abate
19 the public nuisance. Any entry upon private property by the agency
20 for this purpose shall be preceded by written notice to the owner
21 by certified mail stating the date and place of entry, the purpose
22 of entry, and the number of persons entering. If the mailed notice
23 is returned undelivered, the agency may post a copy of the notice
24 at the proposed entry point five days prior to entry.

25 (e) Any costs incurred by the agency in abating a public nuisance
26 pursuant to this section are a lien upon the property upon which
27 the public nuisance existed when notice of the lien is filed and
28 recorded.

29 (f) Notice of the lien, particularly identifying the property on
30 which the nuisance was abated and the amount of the lien, and
31 naming the owner of record of the property, shall be recorded by
32 the agency in the office of the Alameda or Contra Costa County
33 Recorder, as appropriate, within one year after the first item of
34 expenditures by the agency or within 90 days after the completion
35 of the work, whichever first occurs. Upon recordation of the notice
36 of lien, the lien shall have the same force, effect, and priority as a
37 judgment lien, except that it shall attach only to the property
38 described in the notice, and shall continue for 10 years from the
39 time of recording of the notice unless sooner released or otherwise
40 discharged.

1 14. The board shall determine which projects or works of
2 improvement shall be carried out and shall determine, as to each
3 project or work of improvement, that it is for the benefit of the
4 agency in whole or in part.

5 15. The agency may designate the county treasury as its
6 treasury, for all purposes or for such purposes as may be identified
7 by the board of directors by resolution.

8 16. The board of directors may create by resolution any advisory
9 boards, committees, or commissions for the agency as in its
10 judgment are required to serve the best interests of the agency.
11 ~~The board may grant to any advisory board, committee, or~~
12 ~~commission it creates~~ duties as are consistent with the provisions
13 of this act ~~to any advisory board, committee, or commission it~~
14 ~~creates~~. The number of members of any board, committee, or
15 commission created by the board shall be not less than three and
16 shall be specified in the resolution. Members of any board,
17 committee, or commission created by the board shall serve at the
18 pleasure of the board.

19 17. Notwithstanding any other law, the agency may continue
20 to impose any special taxes based upon assessed value or any other
21 special taxes, assessments, or charges imposed by or on behalf of
22 the former Zone 7 of the Alameda County Flood Control and Water
23 Conservation District.

24 18. Subject to Section 4 of Article XIII A and Article XIIC of
25 the California Constitution, the agency may impose new special
26 taxes in accordance with Article 3.5 (commencing with Section
27 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the
28 Government Code at minimum uniform rates according to land
29 use category and size.

30 19. The agency may levy assessments upon any property in the
31 agency, in accordance with the Improvement Act of 1911, the
32 Improvement Bond Act of 1915, the Municipal Improvement Act
33 of 1913, or the Refunding Assessment Bond Act of 1935.

34 20. (a) Any taxes or assessments shall be levied and collected
35 together with, and not separately from, taxes for county purposes
36 and the revenues derived together with any penalties paid by the
37 county to the agency.

38 (b) Provisions of law prescribing the time and manner of
39 levying, assessing, equalizing, and collecting county property
40 taxes, including the sale of property for delinquency, and the

1 redemption from sale, and the duties of county officers in this
2 regard, are, so far as they are applicable and not in conflict with
3 the specific provisions of this act, hereby adopted and made a part
4 of this act.

5 21. (a) The board of directors may, by resolution adopted by
6 a vote of a majority of the total vote of the board, require and fix
7 the amount of, and the maturity, interest rate paid, and any other
8 provisions of, all official bonds necessary for the agency to carry
9 out the objects and purposes of the agency to provide a reliable
10 supply of treated drinking water, agricultural water, and regional
11 flood protection to the public. The resolution shall contain
12 sufficient detail to inform its beneficiaries, including, but not
13 limited to, the purpose or purposes for the indebtedness, the amount
14 of principal, and maximum amount of interest to be paid.

15 (b) After a resolution has been filed pursuant to subdivision (a),
16 the board shall order by ordinance the submission of the proposition
17 of incurring bonded indebtedness to the qualified voters within
18 the territory served by the agency at an election authorized by law
19 at which the qualified electors of the agency are entitled to vote.
20 The ordinance shall submit to the qualified voters of the agency
21 the proposition of incurring a bonded debt detailed in the
22 resolution. In this regard, a brief, general description of the amount
23 and purposes for which the indebtedness is proposed to be incurred
24 with the certified copy of the resolution incorporated by reference
25 shall suffice. The ordinance may state that no bonds authorized at
26 the election will be sold until taxes or assessments have been levied
27 on the area benefited by the improvement which will provide for
28 payments to the agency sufficient to pay the principal and interest
29 on any bonds issued.

30 (c) The board shall cause a map or maps to be prepared covering
31 a general description of the project. A map shall show the location
32 of the proposed project and the board shall cause the map to be
33 posted in a prominent place in the county courthouse for the County
34 of Alameda for public inspection and on the agency's Internet Web
35 site for at least 30 days before the date fixed for the election.

36 (d) The ordinance calling for the election shall, prior to the date
37 set for the election, be published pursuant to Section 6062 of the
38 Government Code in a newspaper of general circulation. The last
39 publication of the ordinance must be at least 14 days before the
40 election, and if there is no newspaper of general circulation, then

1 the ordinance shall be posted in five public places designated by
2 the board, for at least 30 days before the date fixed for the election.
3 No other notice of the election need be given nor need polling
4 place cards be issued.

5 (e) Any defect or irregularity in the proceedings prior to the
6 calling of the election described in this section shall not affect the
7 validity of the bonds authorized by the election. If at the election
8 two-thirds of the votes cast are in favor of incurring the bonded
9 indebtedness, then bonds for the amount stated in the proceedings
10 shall be issued and sold as provided in this act.

11 22. The board may issue and sell the bonds authorized pursuant
12 to the board's resolution at not less than par value, and the proceeds
13 of the sale of the bonds shall be placed in the treasury of the
14 agency.

15 23. Notwithstanding any other law, taxes and assessments may
16 be levied by the board upon any property in the agency for the
17 purpose of making payments to the state under the terms of the
18 agency's state water contract for the construction, maintenance,
19 repair, operation, and all other costs of the zone's prorated share
20 of state water project facilities.

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

26 (b) At the same time and place designated in the public notice,
27 the board shall review its financial reserves.

28 (c) After the conclusion of the meeting, and not later than
29 December 31 of each year, and after making any revisions of,
30 deductions from, or increases or additions to, the proposed budget
31 that the board determines advisable during or after the meeting,
32 the board, by resolution, shall adopt the budget as finally
33 determined.

34 25. The bonds of the agency issued pursuant to this act shall
35 be legal investments for all trust funds, for the funds of all
36 insurance companies, banks, both commercial and savings, and
37 trust companies, for the state school funds, and whenever any
38 money or funds may by law now or hereafter enacted be invested
39 in bonds of cities, cities and counties, counties, school districts,
40 or municipalities in the state, the money or funds may be invested

1 in the bonds of the agency issued in accordance with the provisions
2 of this act, and whenever bonds of cities, cities and counties,
3 counties, school districts, or municipalities, may by any law now
4 or hereafter enacted be used as security for the performance of any
5 act, the bonds of the agency may be so used.

6 26. All bonds issued by the agency under the provisions of this
7 act shall be free and exempt from taxation within the state pursuant
8 to subdivision (c) of Section 3 of Article XIII of the California
9 Constitution.

10 27. Any improvement for which bonds are voted under the
11 provisions of this act shall be made in conformity with the report,
12 plans, specifications, and map adopted, unless the doing of any of
13 the work described in the report shall be prohibited by law, or be
14 rendered contrary to the best interests of the agency by some
15 change of conditions in relation thereto, in which event the board
16 may order necessary changes made in the proposed work or
17 improvements and may cause any plans and specifications to be
18 made and adopted.

19 28. Whenever bonds have been authorized by the agency and
20 the proceeds of the sale of the bonds have been expended as
21 authorized, the board may by resolution determine that additional
22 bonds should be issued for carrying out the work of flood control,
23 water supply, or for any of the purposes of this act, and the board
24 may submit to the qualified voters, the question of issuing
25 additional bonds in the same manner and with like procedure. All
26 provisions of this act for the issuing and sale of bonds and for the
27 expenditure of the proceeds of bonds shall be deemed to apply to
28 an issue of additional bonds.

29 29. In addition to proceedings authorized under this act,
30 whenever the board determines that it is in the public interest, it
31 may borrow money to provide funds to pay the cost of any work
32 or improvement in the agency by the issuance of revenue bonds
33 pursuant to the Revenue Bond Law of 1941 (Chapter 6
34 (commencing with Section 54300) of Part 1 of Division 2 of Title
35 5 of the Government Code), provided that, in addition to the
36 purposes established in the Revenue Bond Law of 1941, the agency
37 may also issue bonds for the purpose of financing the construction,
38 reconstruction, replacement, acquisition, or improvement of any
39 facility or facilities necessary or convenient for the storage,
40 treatment, including reclamation, transmission, or distribution of

1 water for beneficial use within the agency, and for the purpose of
2 generation or transmission of electric power. If the work or
3 improvement is determined by the board to be for an area
4 comprising less than the whole agency, the election at which the
5 proposition to issue revenue bonds is submitted shall be held only
6 in that area. Proceeds from the sale of any revenue bonds shall be
7 expended only in the area in which the proposition to issue revenue
8 bonds is approved. In the case of any conflict between the
9 provisions of this act and the provisions of the Revenue Bond Law
10 of 1941 regarding the issuance of revenue bonds, the provisions
11 of the Revenue Bond Law of 1941 shall control.

12 30. The repeal or amendment of this act or a change in
13 boundaries of the agency shall not in any way affect or release any
14 of the property in the agency from the obligations of any
15 outstanding bonds or indebtedness until all outstanding bonds or
16 indebtedness have been fully paid and discharged.

17 31. There is hereby granted to the agency the right-of-way for
18 the location, construction, and maintenance of water collection,
19 distribution or flood control channels, ditches, waterways, conduits,
20 canals, storm dikes, embankments, and protective works in, over,
21 and across public land of the State of California, not otherwise
22 disposed of or in use, not in any case exceeding in length or width
23 that is necessary for the construction of the works and adjuncts or
24 for the protection thereof. Whenever any selection of a right-of-way
25 for the works or adjuncts is made by the agency the board must
26 transmit to the State Lands Commission, the Controller, and the
27 county recorder in which the selected lands are situated, a plat of
28 the lands selected, giving the extent and the uses for which the
29 same is claimed or desired, duly verified to be correct. If the State
30 Lands Commission approves the selections made it shall endorse
31 its approval upon the plat and issue to the agency a permit to use
32 the right-of-way and lands.

33 32. Claims for money or damages against the agency are
34 governed by Part 3 (commencing with Section 900) of Division 3
35 of, and Part 4 (commencing with Section 940) of Division 3.6 of,
36 Title 1 of the Government Code, except as provided. Claims not
37 governed thereby or by other statutes or by ordinances or
38 regulations authorized by law and expressly applicable to those
39 claims shall be prepared and presented to the governing body and

all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county.

33. (a) The legal title to all property, except shares of stock in mutual water companies or corporations, as provided in Section 17 of Article XVI of the California Constitution, acquired by or on behalf of the former Zone 7 of the Alameda County Flood Control and Water Conservation District or under this act shall immediately and by operation of law vest in the agency, and shall be held by the agency, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board may hold, use, acquire, manage, occupy, and possess the property, as provided, and the board may determine, by resolution duly entered in its minutes that any real property, or interest therein, held by the agency is no longer necessary to be retained for those uses and purposes, and may sell, lease, or otherwise dispose of the property pursuant to this section.

(b) Real property that, in the unanimous judgment of the board, has no access to a public road, or that consists of an easement for ingress and egress to property that, by the terms of the easement, will terminate when ingress and egress is supplied to the property by a public road, may be sold, leased, or conveyed by the board on terms prescribed by it.

(c) The board may reconvey real property to the former owner by whom the property was conveyed, or from whom the property was condemned by the agency, or the owner's successor in interest for fair market value. Fair market value shall be determined by a qualified real estate appraiser. However, the agency may reconvey real property to the former owner or his or her successor in interest for less than fair market value if the agency finds that a public purpose exists justifying that reconveyance for less than fair market value.

(d) The board may by a majority vote exchange real property of equal value with any person, firm, or corporation for the purpose of removing defects in the title to real property owned by the agency or where the real property to be exchanged is not required for agency use and the property to be acquired is required for agency use.

(e) In all other cases, the board shall be governed in the sale, lease, or other disposition of real property by the requirements of law governing that action by counties, provided that notice of the

1 board's intended action shall be as prescribed in Section 25363 of
2 the Government Code.

3 (f) The board may by resolution prescribe a procedure for the
4 leasing of real property owned by the agency alternative to the
5 requirements of law governing counties.

6 (g) The board may, by a majority vote, sell, lease, or otherwise
7 transfer to the state, the County of Alameda or the County of
8 Contra Costa, or to any city, school district, or other special district
9 within the agency, or exchange with the public entities, any real
10 or personal property or interest belonging to the agency upon the
11 terms and conditions that are agreed upon.

12 (h) The board shall establish regulations for the trade in, survey,
13 sale, or other disposition of personal property held by the agency
14 and no longer necessary to be retained for the uses and purposes
15 thereof, provided, however, that any sale of personal property
16 having a sale value in excess of that value stated from time to time
17 by Article 2 (commencing with Section 1041.6) of Subchapter 3
18 of Chapter 2 of Division 2 of Title 2 of the California Code of
19 Regulations as a definition of "fixed assets," or any lower value
20 as may be determined by the board, shall be made upon public bid
21 preceded by notice of the board's intended action given as
22 prescribed in Section 25363 of the Government Code.

23 34. The agency formed under this act, in order to determine
24 the legality of its existence, the legality of any contract entered
25 into by the agency, or any other matter, may institute a proceeding
26 therefor pursuant to the provisions of Chapter 9 (commencing with
27 Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

28 35. (a) Each person elected or appointed to the office of director
29 shall, within 30 days after receiving his or her certificate of
30 election, or notice of appointment, qualify by taking and
31 subscribing to an official oath. The director shall file his or her
32 official oath with the clerk of the board, as has been adjusted, or
33 may be adjusted in the future, pursuant to Chapter 2 (commencing
34 with Section 20200) of Division 10 of the Water Code.

35 (b) The board may authorize each director to receive
36 compensation not exceeding one hundred dollars (\$100) per day
37 for each day's attendance at meetings of the board, or committees
38 thereof, or for each day's service rendered as a director by request
39 of the board.

(c) Employees appointed by the board under this act, when required by the board of the agency, shall execute bonds conditioned, executed, approved, filed, and recorded in the general manner and form provided by law for officers, other than supervisors, of the county, before entering upon the duties of their respective employments.

36. This act, and every part thereof, shall be liberally construed to promote the objects thereof, and to carry out its intents and purposes.

~~37. The provisions and procedures of law available under this act are not subject to the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Part 1 (commencing with Section 2800) of Division 4 of the Streets and Highways Code).~~

~~38.~~

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

SEC. 2. Section 2 of the Alameda County Flood Control and Water Conservation District Act (Chapter 1275 of the Statutes of 1949) is amended to read:

Sec. 2. A flood control district is hereby created to be called the Alameda County Flood Control and Water Conservation District. The district shall consist of all the territory of the County of Alameda lying within the exterior boundaries of the county, ~~except for the territory of the Zone 7 Water Agency on January 1, 2013,~~ save as may be modified by the *Alameda County Local Agency Formation Commission of the County of Alameda to exclude some or all of the Zone 7 Water Agency's territory*. As used in this act "district" means the Alameda County Flood Control and Water Conservation District. *Nothing in this section shall be construed to authorize the Alameda County Local Agency Formation Commission to interfere with or otherwise limit the Zone 7 Water Agency's exercise of flood control authority granted by subdivision (f) of Section 5 of the Zone 7 Water Agency Act.*

SEC. 3. Section 36 of the Alameda County Flood Control and Water Conservation District Act (Chapter 1275 of the Statutes of 1949) is repealed.

1 SEC. 4. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 a local agency or school district has the authority to levy service
4 charges, fees, or assessments sufficient to pay for the program or
5 level of service mandated by this act, within the meaning of Section
6 17556 of the Government Code.

O