

EXHIBIT 26

CHAPTER 98

ANTELOPE VALLEY-EAST KERN WATER AGENCY LAW

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An act creating the Mojave Water Agency and the Antelope Valley-East Kern Water Agency and prescribing their boundaries, organization, operation, management, financing and other powers and duties of the agencies. (Stats.1959, c. 2146, p. 5114.)

§ 98-49. Short title

Sec. 49. Sections 49 to 96, inclusive, of this act are designated and may be cited and referred to as the "Antelope Valley-East Kern Water Agency Law." References to "this act" or "herein" in Sections 49 to 96, inclusive, are to the Antelope Valley-East Kern Water Agency Law.
(Stats.1959, c. 2146, p. 5147, § 49.)

Historical and Statutory Notes

Sections 1 to 35 of Stats.1959, c. 2146, p. 5114, set out as Water C.App. §§ 97-1 to 97-35, created the Mojave Water Agency.

§ 98-50. Creation; management; general powers; boundaries

Sec. 50. The Antelope Valley-East Kern Water Agency is hereby created, organized and incorporated and shall be managed as herein expressly provided and may exercise the powers herein expressly granted or necessarily implied, and may include contiguous or noncontiguous parcels of both unincorporated and incorporated territory and territory included in any public district having similar powers and shall include all territory, except Section 9 of, and the north $\frac{1}{2}$, and the north $\frac{1}{2}$ of the southwest $\frac{1}{4}$, of Section 16 of, Township 6 North, Range 12 West, San Bernardino Base and Meridian, lying within the following described boundaries:

Beginning at the northwesterly corner of Section 2, Township 8 North, Range 17 West, San Bernardino Base and Meridian; thence southerly along the westerly line of said last mentioned section and continuing southerly along section lines to the southwesterly corner of Section 11 of said last mentioned township and range; thence easterly along the southerly line of said last mentioned section and continuing easterly along section lines to the northeasterly corner of Section 17, Township 8 North, Range 16 West, S.E.B. & M.;

thence southerly along the easterly line of said last mentioned section and continuing southerly along section lines to the boundary of the Antelope Valley Soil Conservation District as same existed on March 13, 1959; thence easterly along said last mentioned boundary and following the same in all its various courses to the northeasterly corner of Section 17, Township 9 North, Range 7 West, S.B.B. & M.; thence northerly along the easterly boundary of the County of Kern as same existed on said last mentioned date to the northeasterly corner of Section 1, Township 31 South, Range 40 East, Mount Diablo Base and Meridian, a point on the northerly boundary of the Edwards Town Community Services District as same existed on said last mentioned date; thence westerly along the northerly boundary of said last mentioned district and following the same in all its various courses to the southeasterly corner of Section 36, Township 30 South, Range 38 East, M.D.B. & M.; thence northerly along the easterly line of said last mentioned section and continuing northerly along section lines to the northeasterly corner of Section 1, said last mentioned township and range; thence westerly along the northerly line of said last mentioned section and continuing westerly along section lines to the northeasterly corner of Section 1, Township 30 South, Range 36 East, M.D.B. & M.; thence southerly along the easterly line of said last mentioned section and continuing southerly along section lines to the southeasterly corner of Section 36, said last mentioned township and range; thence westerly along the southerly line of said last mentioned section and continuing westerly along section lines to the northwesterly corner of Section 6, Township 31 South, Range 36 East, M.D.B. & M.; thence southerly along the westerly line of said last mentioned section and continuing southerly along section lines to the southwesterly corner of Section 31, Township 32 South, Range 36 East, M.D.B. & M.; thence westerly and southerly along the northerly and westerly lines of fractional Section 33, Township 12 North, Range 12 West, S.B.B. & M.; to the northeasterly corner of Section 5, Township 11 North, Range 12 West, S.B.B. & M.; thence westerly along the northerly line of said last mentioned section and continuing westerly along section lines to the northwesterly corner of Section 6, Township 11 North, Range 13 West, S.B.B. & M.; thence southerly along the westerly line of said last mentioned section and continuing southerly along section lines to the boundary of the Antelope Valley Soil Conservation District; thence westerly along said last mentioned boundary to the northwesterly corner of Section 6, Township 10 North, Range 14 West, S.B.B. & M.; thence southerly along the westerly line of said last mentioned section and continuing southerly along section lines to the southeasterly corner of Section 36, Township 10 North, Range 15 West, S.B.B. & M.; thence westerly along the southerly line of said last mentioned section to the northwesterly corner of Section 1, Township 9 North, Range 15 West, S.B.B. & M.; thence southerly along the westerly line of said last mentioned section and continuing southerly along section lines to the southeasterly corner of Section 23 of said last mentioned township and range; thence westerly along the southerly line of said last mentioned section and continuing westerly along section lines to the southeasterly corner of Section 19 of said last mentioned township and range; thence northerly and westerly along the easterly and northerly lines of said last

mentioned section and continuing westerly along section lines to the northwesterly corner of Section 19, Township 9 North, Range 16 West, S.B.B. & M.; thence southerly along the westerly line of said last mentioned section and continuing southerly along section lines to the southeasterly corner of Section 25, Township 9 North, Range 17 West, S.B.B. & M.; thence westerly along the southerly line of said last mentioned section and continuing westerly along section lines to the northwesterly corner of Section 35 of said last mentioned township and range; thence southerly along the westerly line of said last mentioned section to the point of beginning; excluding all the following described land (except that which is within the Los Angeles County Waterworks Districts Nos. 24 and 27 as their boundaries exist on the effective date of this act) beginning at the NW corner of Sec. 22, T 6 N, R 12 W, SBBM, thence southerly along the west line, Secs. 22, 27, 34 to the north line, T 5 N, thence westerly on the north line of T 5 N to the NW corner of Sec. 4, T 5 N, R 12 W, SBBM; thence southerly along the section lines in T 5 N, R 12 W to the southerly boundary of the Antelope Valley Soil Conservation District as same existed on March 14, 1959; thence southerly, easterly, and northerly along said last mentioned boundary and following the same in all of those various courses to the east $\frac{1}{4}$ corner of Sec. 13, T 5 N, R 8 W, SBBM; thence westerly along the center section lines of Secs. 13, 14, 15, 16, 17, 18, T 5 NR 8 W, Secs. 13, 14, 15, 16, 17, 18 T 5 NR 9 W, and Secs. 13, 14, 15, T 5 NR 10 W; thence northerly along the westerly lines of Secs. 15, 10 and 3, T 5 NR 10 W; thence easterly along the north line of T 5 N to the SE corner, Sec. 34, T 6 NR 10 W; thence northerly along easterly lines of Sec. 34 and 27 to the NE corner of Sec. 27, T 6 NR 10 W; thence westerly along the north section lines of Secs. 27, 28, 29, 30, T 6 NR 10 W and along the north lines of Secs. 25, 26, 27, T 6 NR 11 W to the SE corner of Sec. 21, T 6 N R 11 W; thence northerly along the east line of Sec. 21 to the NE corner of said Sec. 21; thence westerly along the north lines of Secs. 21, 20 and 19, T 6 NR 11 W and along the north line of Sec. 24, T 6 NR 12 W to the south $\frac{1}{4}$ corner of Sec. 13, T 6 NR 12 W; thence northerly along the center line of said Section 13 to the center of said Sec. 13; thence westerly to the W $\frac{1}{4}$ corner of Sec. 13; thence southerly to the SW corner of said Sec. 13; thence westerly along the northern line of Secs. 23 and 22, T 6 NR 12 W, SBBM to the point of beginning.

(Stats.1959, c. 2146, p. 5147, § 50. Amended by Stats.1963, c. 546, p. 1424, § 1, eff. May 22, 1963.)

Historical and Statutory Notes

Section 2 of Stats.1963, c. 546, p. 1426, provided:

"The property in the territory excluded from the Antelope Valley-East Kern Water Agency by this act shall continue to be subject to taxation to pay the principal and interest on any indebtedness of that agency, any on any indebtedness of an improvement district in which such property is situated, which is incurred prior to the effective date of this act.

"As used in this section, 'indebtedness' means any bond, formation warrant, or promissory

note for the payment of which property in the district is taxable.

"The property in the territory excluded from the agency shall continue to be subject to taxation to pay any obligations incurred by the agency pursuant to the contract with the State under the California Water Resources Development Bond Act until the territory excluded has been annexed to another water district which has a similar contract with the State for a supplementary water supply from the State Water Facilities.

"The property in the territory excluded from the agency shall not be subject to annexation to the agency for a period of one year from the effective date of this act."

Cross References

Boundaries,

Kern county, see Government Code § 23115.

Los Angeles county, see Government Code § 23119.

Library References

Waters and Water Courses \approx 183½.

WESTLAW Topic No. 405.

C.J.S. Waters § 243.

§ 98-51. Board of directors; composition; appointment of first board; elections

Sec. 51. The board of directors of the Antelope Valley-East Kern Water Agency organized under this act shall consist of seven members, and only one director shall be a resident of a division of the agency. The Governor shall appoint the first board of directors for each of the seven divisions of such agency, which divisions shall be numbered first, second, third, fourth and fifth, sixth and seventh, and shall be established by the Director of the State Department of Water Resources according to and based upon the population as to equalize, as nearly as practicable, the population in the respective divisions, or reestablished as provided in Section 93 of this act.

All successors of the first board shall be elected or chosen at the time and in the manner hereinafter provided. Each director shall hold office for the term of four years from and after the date for his taking of office, as herein provided, and until the election and qualification of his successor, except that the seven members of the first board of directors shall classify themselves by lot so that three of them shall hold office until the qualification of, and taking office by, their successors elected at an election held in the next succeeding even-numbered year, and so that four shall hold office until the qualification of, and taking office by, their successors elected at an election held in the second succeeding even-numbered year.

The elections of directors shall be held at the time of the general election and shall be consolidated therewith. Candidates shall declare their candidacy no less than 88 and no more than 113 days before the general election. Each candidate for director who at such election receives the highest number of votes cast for candidates for the office for which he seeks election shall be elected to such office.

If a tie vote makes it impossible to determine which of two or more candidates has been elected, the governing body shall forthwith notify the candidates who have received the tie votes to appear before it either personally or by a representative at a time and place designated by the governing body. The governing body shall at that time and place determine the tie by lot and the results thereof shall be declared by the governing body. The candidate so chosen shall qualify, take office and serve as though elected at the preceding general district election. Directors elected hereunder, except for the first board

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of directors, shall take office at the time provided by the Government Code for county officers. Such election held at the same time of the general election and consolidated therewith shall be known as the general Antelope Valley-East Kern Water Agency election. Each other election held by authority of this act or any other law shall be known as a special Antelope Valley-East Kern Water Agency election.

(Stats.1959, c. 2146, p. 5149, § 51. Amended by Stats.1971, c. 593, p. 1192, § 1.)

§ 98-52. Date of election; sole nominee or absence of nominees; resolution ordering election not be held; appointment of directors

Sec. 52. No later than 113 days before the general election the registrar of voters shall publish a notice designating the name and date of the election and the office or offices for which candidates are to be nominated. No later than 70 days before the general election the registrar of voters shall publish a notice giving the names and addresses of all candidates in the general Antelope Valley-East Kern Water Agency election, the date of the election and the hours that the polls will be open.

If, on the 80th day prior to the day fixed for the agency general election, only one person has been nominated for each office of member of the board of directors to be filled at that election, or if no person has been nominated for any one or more of said offices, said board of directors shall by resolution entered in their minutes order that an election shall not be held, and shall immediately request that the board of supervisors of the county in which the division or a greater portion thereof is situated, at a regular or special meeting held prior to the day of election, appoint, and the board of supervisors shall thereupon appoint, to the office or offices the person or persons who have been nominated, or if no person or persons have been nominated, any qualified person or persons. The person appointed shall qualify, take office, serve, and be subject to recall exactly as if elected at an agency general election.

In such case, the second publication provided for in this section shall, instead of calling an election, state that no election is to be held but that the board of supervisors will either appoint those nominated for the positions of directors or appoint a qualified person or persons to the office or offices for which no one has been nominated as the circumstances may warrant. All notices required by this section shall be published in a newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper having general circulation in the agency.

(Stats.1959, c. 2146, p. 5150, § 52. Amended by Stats.1965, c. 554, p. 1880, § 1; Stats.1967, c. 136, § 1; Stats.1971, c. 593, p. 1192, § 2.)

Cross References

Publication by newspaper, see Government Code § 6000 et seq.

§ 98-53. Registration of voters; ballots

Sec. 53. No person shall vote at any Antelope Valley-East Kern Water Agency election held under the provisions of this act who is not a voter within

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the meaning of the Elections Code, residing in the division of the Antelope Valley-East Kern Water Agency in which he casts his vote. For the purpose of registering voters who shall be entitled to vote at Antelope Valley-East Kern Water Agency elections, the county clerk or registrar of voters is authorized, in any county in which there is the Antelope Valley-East Kern Water Agency to indicate upon the affidavit of registration whether the voter is a voter of the Antelope Valley-East Kern Water Agency.

In case the boundary line of the Antelope Valley-East Kern Water Agency crosses the boundary line of a county election precinct only those voters within such Antelope Valley-East Kern Water Agency and within such precinct who are registered as being voters within the Antelope Valley-East Kern Water Agency shall be permitted to vote, and for that purpose the county clerk or registrar of voters is hereby empowered to provide two sets of ballots within such precincts, one containing the names of candidates for office in said Antelope Valley-East Kern Water Agency, and the other not containing such names, and it shall be the duty of the election officers in such precincts to furnish only those persons registered as voters within such Antelope Valley-East Kern Water Agency with the ballots upon which are printed the names of the candidates for office in Antelope Valley-East Kern Water Agency.
(Stats. 1959, c. 2146, p. 5151, § 53.)

§ 98-54. Laws governing elections; form of ballot

Sec. 54. The provisions of the Elections Code so far as they may be applicable shall govern all general Antelope Valley-East Kern Water Agency elections and all special Antelope Valley-East Kern Water Agency elections, except as in this act otherwise provided.

In counties in which the Antelope Valley-East Kern Water Agency is located the county clerk or registrar of voters is hereby given authority, and he hereby is authorized to have printed upon the official ballots provided for voters at elections for directors a heading in the same form as that provided by the Elections Code for nonpartisan officers, which heading shall be marked "Antelope Valley-East Kern Water Agency," with a subheading "For a Member of the Board of Directors, Division (here inserting the number of the division) —Vote for One," and beneath which shall appear the names of the candidates for the office of member of the board of directors of such division of the Antelope Valley-East Kern Water Agency, with the appropriate blank space for the writing in of the name of a candidate if desired by the voters, and with a voting square placed opposite the space. The ballots thus provided shall be furnished by the precinct officers only to those voters within their respective precincts who shall appear on the register as duly registered voters, within that division of the Antelope Valley-East Kern Water Agency, and in precincts which lie partly within such Antelope Valley-East Kern Water Agency and partly without the precinct board shall be supplied with two kinds of ballots by said county clerk or registrar of voters, one of which shall contain the matters hereinabove set forth for the use of voters of the Antelope Valley-East Kern Water Agency, and the other of which shall be without such heading containing

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the names of candidates for the office of members of the board of directors, and which shall be furnished to those voters who are not voters of the Antelope Valley-East Kern Water Agency and who are voters of the precinct.

(Stats.1959, c. 2146, p. 5151, § 54.)

§ 98-55. Call of elections; initiative and referendum; compensation of election officers

Sec. 55. The board of directors of the Antelope Valley-East Kern Water Agency shall call and canvass all elections involving matters of initiative and referendum and shall call all other elections which it is authorized to canvass.

The governing body calling or conducting any election under the provisions of this act shall fix the compensation to be paid the officers of the election and shall designate the precincts and polling places for each division of the agency and shall appoint the officers of such election, who shall consist of one inspector, one judge, and two clerks, unless in case of consolidated elections, other officers of election are required by law.

The voting precincts for any such election may be established and the boundaries thereof fixed and described by such governing body, or such voting precincts may consist of either the regular election precincts or portions thereof within the agency established for holding state or county elections, or consolidation of any or all of such regular election precincts or portions thereof last established. If any Antelope Valley-East Kern Water Agency election is consolidated with any state or county election, then the voting precincts, polling places, and election officers for the agency election shall be the same as those established for such state or county election.

(Stats.1959, c. 2146, p. 5152, § 55.)

Cross References

Initiative and referendum, see Elections Code § 9100 et seq.

§ 98-56. Recall of incumbents

Sec. 56. Every incumbent of an elective office, whether elected by popular vote for a full term, appointed by the board of supervisors in lieu of election, or chosen by the board of directors to fill a vacancy, is subject to recall by the voters of the Antelope Valley-East Kern Water Agency organized under the provisions of this act in accordance with the recall provisions of the Elections Code of the state with reference to cities.

(Stats.1959, c. 2146, p. 5152, § 56. Amended by Stats.1967, c. 136, § 2.)

§ 98-57. Board of directors as governing body; meetings; president; quorum

Sec. 57. The board of directors shall be the governing body of the Antelope Valley-East Kern Water Agency. It shall hold its first meeting as soon as possible after the appointment and certification of the first board of directors and not later than the sixth Monday after the date of the first election of

directors as herein provided; it shall choose one of its members president, and shall thereupon provide for the time and place of holding its meetings and the manner in which its special meetings may be called. All legislative sessions of the board of directors whether regular or special shall be open to the public. A majority of the board of directors shall constitute a quorum for the transaction of business. At its first meeting in the month of January of each odd-numbered year, the board of directors shall choose one of its members president.
(Stats.1959, c. 2146, p. 5152, § 57.)

§ 98-58. Proceedings of board; compensation of directors; vacancies

Sec. 58. The board of directors shall act only by ordinance, resolution, or motion. On all ordinances, the roll shall be called and the ayes and noes recorded in the journal of the proceedings of the board of directors. Resolutions and orders may be adopted by voice vote, but on demand of any member the roll shall be called. No ordinance, motion, or resolution shall be passed or become effective without the affirmative vote of a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be: "Be it ordained by the Board of Directors of the Antelope Valley-East Kern Water Agency as follows:". Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his duties required or authorized by the board. Any vacancy in the board of directors shall be filled pursuant to the provisions of Section 1780 of the Government Code; provided, however, that the person so chosen shall be a resident of and otherwise qualified to be a director from the division in which the vacancy shall occur and shall hold office pursuant to the provisions of Section 1780 of the Government Code.

(Stats.1959, c. 2146, p. 5153, § 58. Amended by Stats.1976, c. 1463, p. 6562, § 3; Stats.1981, c. 725, p. 2873, § 9.)

§ 98-59. Officers and employees; appointment; compensation

Sec. 59. The board of directors shall be the governing body of the Antelope Valley-East Kern Water Agency and shall at its first meeting, or as soon thereafter as practicable, and at any other appropriate time, appoint by a majority vote (1) a secretary, (2) a treasurer, (3) an attorney, (4) a chief engineer, (5) a general manager and (6) an auditor, and pursuant to Section 65 of this act define their duties and fix their compensation, and each shall serve at the pleasure of the board, and may employ such additional assistants and employees as they may deem necessary to efficiently maintain and operate said agency. Said board may consolidate the offices of secretary and treasurer, and the offices of chief engineer and general manager.

(Stats.1959, c. 2146, p. 5153, § 59. Amended by Stats.1961, c. 1624, p. 3520, § 1; Stats.1967, c. 136, § 3.)

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§ 98-60. Validity of proceedings

Sec. 60. No informality in any proceeding or informality in the conduct of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the incorporation of the Antelope Valley-East Kern Water Agency and the legal existence of said Antelope Valley-East Kern Water Agency and all proceedings in respect thereto shall be held to be valid and in every respect legal and incontestable.

(Stats.1959, c. 2146, p. 5153, § 60.)

§ 98-61. Powers of agency

Sec. 61. The Antelope Valley-East Kern Water Agency, incorporated as herein provided, shall have power:

1. To have perpetual succession;
2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;
3. To adopt a seal and alter it at pleasure;
4. To take by grant, purchase, gift, devise, lease, or lease with option to purchase, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the Antelope Valley-East Kern Water Agency;
5. To acquire, or contract to acquire, waterworks or a waterworks system, waters, water rights, lands, rights and privileges and construct, maintain and operate conduits, pipelines, reservoirs, works, machinery, and other property useful or necessary to store, convey, supply, or otherwise make use of water for a waterworks plant or system for the benefit of the agency, and to complete, extend, add to, repair, or otherwise improve any waterworks or waterworks system acquired by it as herein authorized;

5a. To construct, maintain, improve, and operate public recreational facilities appurtenant to any water reservoir operated or contracted to be operated by the Antelope Valley-East Kern Water Agency, and to provide by ordinance regulations binding upon all persons to govern the use of such facilities including regulations imposing reasonable charges for the use thereof. Violation of any such regulation shall be a misdemeanor;

6. To lease of and from any person, firm or public or private corporation, or public agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation or distribution facilities, existing waterworks or a waterworks system, and to carry on and conduct waterworks or a waterworks system; also to sell water under the control of the agency to cities, and to other public corporations and public agencies within the agency, and to the inhabitants of such cities and of other territory within the agency, and to persons, corporations, and other private agencies within the agency for use within said agency without any preference, and it may, whenever the board shall find that there is a surplus of water above that which may be required by such consumers within the agency, sell or otherwise dispose of such surplus water to any persons, firms, public, or private corporations or public agencies or other consumers;

6a. To supply and deliver water to publicly owned and operated golf courses and other publicly owned and operated recreational facilities and to public schools, school districts and public school properties, and to fix and establish special rates, terms, and conditions for the use and sale of water for each of these purposes; provided, however, that this provision shall not be construed to indicate legislative intent either for or against the existence of any power of the agency to furnish water to other persons, firms or corporations at just and reasonable rates;

7. To exercise the right of eminent domain to take any property necessary to supply the agency or any portion thereof with water, and to carry out any other powers of the agency. The agency, in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility which is required to be removed to a new location. The agency may exercise the power of eminent domain with respect to property situated outside the boundaries of the agency if it first obtains the consent thereto of the board of supervisors of the county in which such property is located;

8. To issue bonds, borrow money, and incur indebtedness as authorized by law or in this act provided; also to refund (by the issuance of the same obligations following the same procedure) or retire any indebtedness or lien that may exist against the agency or property thereof;

8a. To issue negotiable promissory notes bearing interest at a rate not exceeding 8 percent per annum; provided, however, that the notes shall be payable from revenues and taxes legally derived subject to any maximum property tax rate procedure; and provided further, that the maturity shall not be later than five years from the date thereof and that the total aggregate amount of such notes outstanding at any one time may be at least equal to seventy-five thousand dollars (\$75,000) in the Antelope Valley-East Kern Water Agency but shall not otherwise exceed the lesser of either two million dollars (\$2,000,000) or 2 percent of the assessed valuation of the taxable property in the Antelope Valley-East Kern Water Agency or, if the assessed valuation is not obtainable, 2 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his certificate;

9. To cause taxes to be levied, in the manner hereinafter provided, for the purpose of paying any obligation of the agency, including its formation expenses and any warrants issued therefor;

9a. To restrict the use of agency water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of agency water or the use of agency water during such periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the agency; to prohibit use of such water during such periods for specific uses which the agency may from time to time find to be nonessential;

10. To prescribe and define by ordinance the restrictions, prohibitions, and exclusions referred to in paragraph 9a hereof. Every ordinance relating to the

matters referred to in this paragraph shall be in full force and effect forthwith upon adoption, but shall be published pursuant to Section 6061 of the Government Code in full in a newspaper of general circulation, printed, published, and circulated in the agency within 10 days after adoption, or if there be no such newspaper it shall be posted within that time in three public places within the agency;

11. To make contracts, to employ labor, and do all acts necessary for the full exercise of the agency's powers;

12. To provide by ordinance of its board of directors for the pensioning of officers or employees and the creation of a special fund for the purpose of paying such pensions, and the accumulation of contributions to said fund from the revenues of the agency, the wages of officers or employees, voluntary contributions, gifts, donations, or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of such officers or employees, and to provide in such ordinance for the terms and conditions under which such pensions shall be awarded, and for the time and extent of service of officers or employees before such pensions shall be available to them;

13. To acquire, control, distribute, store, spread, sink, treat, purify, reclaim, recapture, and salvage any water, including sewage and storm waters, for the beneficial use or uses and protection of the agency or its inhabitants or the owners of rights to water therein;

14. To commence, maintain, intervene in, and compromise, in the name of the agency, any action or proceeding involving or affecting the ownership or use of water or water rights within the agency, used or useful for any purpose of the agency, or a common benefit to lands within the agency or its inhabitants;

15. Distribute water to persons in exchange for ceasing or reducing groundwater extractions and to fix the terms and conditions of any contract under which producers may agree voluntarily to use water from a nontributary source in lieu of groundwater, and to such end the agency may become a party to such contract and pay from agency funds such portion of the cost of such waters as will encourage the purchase and use of such water in lieu of pumping so long as the persons or property within the agency are directly or indirectly benefited;

16. To issue bonds under Section 68 of this act for the purpose of providing money required to be paid to the agency organized under the Metropolitan Water District Act by the board of directors of the agency as all or part of the terms and conditions upon which the corporate area of the Antelope Valley-East Kern Water Agency may be annexed to and become a part of that metropolitan water district. The amount of the bonds may include expenses of all proceedings for the authorization, issuance, and sale of the bonds;

17. To issue revenue bonds for any purpose for which such bonds could be issued under the provisions of the Revenue Bond Law of 1941 or any other law which by its terms is applicable to the agency formed under this act;

18. To use the Improvement Act of 1911 for the construction of any facilities authorized to be constructed under the provisions of this act. The powers and duties conferred by the Improvement Act of 1911 on the various boards, officers, and agents of cities shall be exercised by the respective boards, officers, and agents of the Antelope Valley-East Kern Water Agency. In the application of said Improvement Act of 1911 to proceedings instituted by the Antelope Valley-East Kern Water Agency, the terms used in said Improvement Act of 1911 shall have the following meanings:

- (a) "City council" and "council" shall mean the Board of Directors of the Antelope Valley-East Kern Water Agency.
- (b) "Municipality" and "city" shall mean the Antelope Valley-East Kern Water Agency.
- (c) "Clerk" and "city clerk" shall mean the secretary.
- (d) "Superintendent of streets," "street superintendent" and "city engineer" shall mean the chief engineer of the agency.
- (e) "Tax collector" shall mean the county tax collector.
- (f) "Treasurer" and "city treasurer" shall mean the treasurer of the Antelope Valley-East Kern Water Agency.
- (g) "Mayor" shall mean the president of the board of directors of the Antelope Valley-East Kern Water Agency.
- (h) "Right-of-way" shall mean any parcel of land in, on, under or through which a right-of-way or easement has been granted to the agency for the purpose of constructing and maintaining any works or improvements of the Antelope Valley-East Kern Water Agency.

Any certificates or documents required to be filed or recorded in the office of the superintendent of streets or street superintendent shall be filed or recorded in the office of the secretary of the Antelope Valley-East Kern Water Agency.

19. To disseminate information concerning the rights, properties, and activities of the agency.

20. To construct, maintain, improve, and operate one or more plants for the generation of hydroelectric power and transmission lines for the conveyance thereof. The plant or plants so constructed shall be operated in a manner consistent with the agency's storage, transmission, and distribution of water. Construction of the plant or plants and transmission lines may be financed as provided herein for other agency works. The plant or plants and transmission lines so constructed may be leased for operation to, or the power generated may be sold to, a public utility or public agency engaged in the distribution, use, or sale of electricity.

The power generated may be used by the agency for its own purposes, or for the production or transmission of water, but shall not be offered for sale directly by the agency to customers other than a public utility or public agency for any use other than the production or transmission of water.

(Stats.1939, c. 2146, p. 5153, § 61. Amended by Stats.1967, c. 136, § 4; Stats.1975, c. 586, p. 1245, § 1; Stats.1976, c. 1463, p. 6562, § 4; Stats.1982, c. 232, p. 759, § 3; Stats.1984, c. 1128, § 158.)

Law Revision Commission Comment

1975 Amendment

The deleted portions of subdivision 7 of Section 61 [Water C.App. § 98-61] are superseded by the Eminent Domain Law. See Code Civ.Proc. §§ 1230.020 (uniform procedure), 1240.610 et seq. (more necessary public use). Former subdivision 11 was unnecessary. See Code Civ.Proc. § 1250.210 and Comment thereto.

Historical and Statutory Notes

Section 12 of Stats.1975, c. 586, p. 1285, same time as Assembly Bill No. 11 [July 1, 1976]."

provided:
"This act shall become operative only if Assembly Bill No. 11 [Stats.1975, c. 1275] is chaptered and becomes effective January 1, 1976, and, in such case, shall become operative at the
For subject matter formerly contained in this section relating to contracts, see, now, Pub. Con.C. § 21481.

Cross References

Eminent domain, see Const. Art. 1, § 19; Civil Code § 1001; Code of Civil Procedure § 1230.010 et seq.

Library References

Recommendations relating to condemnation law and procedure in special districts. 12 Cal.L.Rev.Comm. Reports 1101 (1974).
Sovereign immunity study. Cal.Law Revision Comm. (1963) Vol. 5, pp. 29, 81.

§ 98-61.1. Equitable distribution and apportionment of water; determination of fair share

Sec. 61.1. The agency shall whenever practicable, distribute and apportion the water purchased from the State of California or water obtained from any other source as equitably as possible on the basis of total payment by a district or geographical area within the agency regardless of its present status, of taxes, in relation that such payment bears to the total taxes and assessments collected from all other areas.

It is the intent of this section to assure each area or district its fair share of water based upon the amounts paid into the agency, as they bear relation to the total amount collected by the agency.

(Added by Stats.1961, c. 1624, p. 3520, § 2.)

Library References

States 82 to 84.
Waters and Water Courses 249.
WESTLAW Topic Nos. 390, 405.
C.J.S. States §§ 141 to 148, 165, 202.
C.J.S. Waters § 352 et seq.

§ 98-62. Emergency or shortage of water; finding; reception in evidence

Sec. 62. A finding by the board of directors upon the existence, threat, or duration of an emergency or shortage of water or upon the matter of necessity or any other matter or condition referred to in subdivisions 9a or 9b of said Section 61, shall be made by resolution or ordinance, and shall be prima facie evidence of the fact or matter so found, and such fact or matter shall be presumed to continue unchanged unless and until a contrary finding shall have

been made by the board by resolution or ordinance. Such finding shall be received in evidence in any civil or criminal proceeding in which it may be offered, and shall be proof and evidence of the fact or matter found until rebutted or overcome by other sufficient evidence received in such proceeding. Copy of any resolution or ordinance setting forth such finding shall, when certified by the secretary of the agency, be evidence that the finding was made by the agency as shown by the resolution or ordinance and certification. (Stats.1959, c. 2146, p. 5158, § 62.)

Cross References

Prima facie evidence, rebuttable presumption, see Evidence Code § 602.

§ 98-63. Violations; penalties

Sec. 63. From and after the publication or posting of any ordinance as provided in subdivision 9b of Section 61 of this act, it is hereby declared to be and it shall be a misdemeanor for any person, firm or corporation to use or apply water received from the agency contrary to or in violation of such restriction or prohibition, until such ordinance shall have been repealed or such emergency or threatened emergency shall have ceased, and upon conviction thereof such person, firm or corporation shall be punished by being imprisoned in the county jail for not more than 30 days or by fine of not more than three hundred dollars (\$300), or by both such fine and imprisonment. (Stats.1959, c. 2146, p. 5158, § 63.)

Cross References

Publication in newspapers, see Government Code § 6000 et seq.

§ 98-64. Action to test validity of contracts

Sec. 64. An action to determine the validity of any contract authorized by paragraph 14 of Section 61 may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. (Stats.1959, c. 2146, p. 5159, § 64. Amended by Stats.1961, c. 1485, p. 3335, § 1.)

Cross References

Pleading, see Code of Civil Procedure § 420 et seq.

Library References

Declaratory Judgment § 204.
WESTLAW Topic No. 118A.
CJS Declaratory Judgments § 88.

§ 98-65. Exercise and delegation of administrative, executive and ministerial powers

Sec. 65. All powers, privileges, and duties vested in or imposed upon the Antelope Valley-East Kern Water Agency incorporated hereunder shall be exercised and performed by and through the board of directors. However, the exercise of any and all executive, administrative, and ministerial powers may be

by the board of directors delegated and redelegated to any of the offices created hereby and by the board of directors acting hereunder.

The board of directors shall have power:

(1) To fix the time and place or places at which its regular meetings shall be held, and to provide for the calling and holding of special meetings.

(2) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(3) To prescribe by ordinance a system of business administration and to create any and all necessary offices and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(4) To prescribe by ordinance a system of civil service.

(5) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal, and engineering assistants and labor, and under the conditions and restrictions as shall be fixed by the directors, power to bind the agency by contract.

(6) To prescribe a method of auditing and allowing or rejecting claims and demands.

(7) To prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures, or equipment, or the performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act or for the acquisition or disposal of any real or personal property. However, in cases where work is not to be done by the agency itself by force account, and the amount involved shall be fifty thousand dollars (\$50,000), or more, any contract for the doing of the work shall be let to the lowest responsible bidder, after publication, in the manner prescribed by the board, of notices inviting bids therefor, subject to the right of the board to reject any and all proposals. Contracts, in writing or otherwise, for the acquisition or disposal of any real or personal property may be let without calling for competitive bids. The board may, from time to time, fix and establish the manner of calling for bids and letting contracts, but except as the procedure established by the board otherwise requires, all contracts may be entered into upon the terms and in the manner as the board may authorize.

(8) To fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service. However, rates shall be uniform for like classes or conditions of service throughout the agency, but any special water rate fixed in accordance with terms and conditions of annexation fixed by the board under Section 82 or 83 hereof, shall be deemed to be a rate for a different class or condition of service. The board may, by resolution or ordinance, adopt regulations respecting the exercise of its powers and the carrying out of its purposes, and to fix and collect rates and charges for the providing or the availability of any service it is authorized to provide or make available for the sale, lease, or other disposition of water or other product of its works or operations, including standby charges and connection charges. A

violation of a regulation of the agency adopted by ordinance is a misdemeanor punishable by fine not to exceed one hundred dollars (\$100), imprisonment not to exceed one month, or by both the fine and imprisonment.

(Stats.1959, c. 2146, p. 5159, § 65. Amended by Stats.1961, c. 1624, p. 3520, § 3; Stats.1976, c. 1463, p. 6568, § 5; Stats.1998, c. 142 (S.B.1860), § 17.)

§ 98-66. Repealed by Stats.1970, c. 447, p. 895, § 20

Historical and Statutory Notes

The repealed section, added by Stats.1959, c. 2146, § 66, related to conflict of interest.

§ 98-67. Officers and employees; duties; bonds; designation of depositories of funds

Sec. 67. The president and secretary in addition to the respective duties imposed on them by law shall perform such duties as may be imposed on them by the board of directors. The treasurer, or such other person or persons as may be authorized by the board of directors, shall draw checks or warrants to pay demands when such demands shall have been audited and approved in the manner prescribed by the board of directors.

The chief engineer or the general manager, as may be designated by the board of directors, shall have full charge and control of the maintenance, operation and construction of the waterworks or waterworks system of the agency with full power and authority to employ and discharge all employees and assistants at pleasure, prescribe their duties, fix their compensation, subject to the approval of the board of directors.

The chief engineer and the general manager shall perform such duties as may be imposed on each of them by the board of directors. The chief engineer and the general manager shall report to the board of directors in accordance with such rules and regulations as the board may direct.

The attorney shall be the legal adviser of the agency and shall perform such other duties as may be prescribed by the board of directors.

The board of directors shall designate a depository or depositories to have the custody of the funds of the agency, all of which depositories shall give security sufficient to secure the agency against possible loss, and who shall pay the warrants drawn by the treasurer for demands against the agency under such rules as the directors may prescribe.

The chief engineer, general manager, secretary, and treasurer, and all other employees or assistants of said agency who may be required so to do by the board of directors, shall give such bonds to the agency conditioned for the faithful performance of their duties as the board of directors from time to time may provide. The premiums on such bonds shall be paid by the agency.

(Stats. 1959, c. 2146, p. 5161, § 67. Amended by Stats.1976, c. 1463, p. 6568, § 4.5.)

§ 98-68. Indebtedness; election; actions to contest validity of bonds

Sec. 68. Whenever the board of directors deems it necessary for the agency to incur a bonded indebtedness for the acquisition, construction, completion, or

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repair of any or all improvements, works or property mentioned in this act, the board shall, by resolution, so declare and call an election to be held in said agency for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of said agency. Said resolution shall state: (a) the purpose for which the proposed debt is to be incurred, which may include expenses of all proceedings for the authorization, issuance and sale of the bonds, interest during construction and for one year thereafter, initial working capital, operating and maintenance costs during construction and for one year thereafter, costs of utility relocation, costs of engineering, planning, design and inspection, and costs of acquiring rights-of-way; (b) the amount of debt to be incurred; (c) the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years; (d) the maximum rate of interest to be paid, which shall not exceed 8 percent per annum, payable semiannually, except that interest for the first year may be payable at the end of said year; (e) the measure to be submitted to the voters; (f) the date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred; and (g) the designation of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct. The board of directors shall provide for holding such special election on the day so fixed and in accordance with the provisions of the Elections Code so far as the same shall be applicable, except as herein otherwise provided. Notice of the holding of such election shall be given by publishing pursuant to Section 6066 of the Government Code the resolution calling the election, the last publication to be made not less than two weeks prior to the date of the proposed election, in at least one newspaper published in such agency, then such resolution shall be posted in three public places in such agency not less than two weeks prior to the date of the proposed election. No other notice of such election need be given. The returns of such election shall be made, the votes canvassed by said board of directors within seven days following said election, and the results thereof ascertained and declared in accordance with the provisions of the Elections Code, so far as they may be applicable, except as in this act otherwise provided. The secretary of the board of directors, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted.

Any action or proceeding, wherein the validity of any such bonds or of the proceedings in relation thereto is contested, questioned or denied, shall be commenced within three months from the date of such election; otherwise, said bonds and all proceedings in relation thereto shall be held to be valid and in every respect legal and incontestable.

(Stats.1959, c. 2146, p. 5162, § 68. Amended by Stats.1969, c. 449, p. 1001, § 1, Stats.1972, c. 112, p. 151, § 1, eff. June 2, 1972; Stats.1975, c. 130, p. 232, § 89.)

Historical and Statutory Notes

Legislative intent of Stats.1975, c. 130, see
Historical and Statutory Notes under Public
Utilities Code § 13207.

Cross References

Appropriation limits, see Const. Art. 13B, § 1 et seq.
Publication in newspapers, see Government Code § 6000 et seq.

Library References

Declaratory Judgment ⇨211.
WESTLAW Topic No. 118A.
C.J.S. Declaratory Judgments § 78.

§ 98-69. Acquisition, construction or repair of improvements; bonded indebtedness; hearing; special election; irregularities

Sec. 69. Whenever the board of directors deems it necessary to incur a bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works or property mentioned in this act and to provide for such bonded indebtedness to be payable from taxes levied upon less than all of the agency, the board shall, by resolution, so declare and state: (a) the purpose for which the proposed debt is to be incurred; (b) the amount of debt to be incurred, which may include expenses of all proceedings for the authorization, issuance and the sale of the bonds; (c) that the board intends to form an improvement district of a portion of the agency which in the opinion of the board will be benefited, the exterior boundaries of which portion are set forth on a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the proposed improvement district, and to call an election in such proposed improvement district on a date to be fixed, for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the agency for said improvement district; (d) that taxes for the payment of said bonds and the interest thereon shall be levied exclusively upon the taxable property in the improvement district; (e) that a general description of the proposed improvement, together with a map showing the exterior boundaries of said proposed improvement district with relation to the territory immediately contiguous thereto and to the proposed improvement is on file with the secretary of the agency and is available for inspection by any person or persons interested; (f) the time and place for a hearing by the board on the questions of the formation of said proposed improvement district, the extent thereof, the proposed improvement and the amount of debt to be incurred; and (g) that at the time and place specified in the resolution any person interested, including all persons owning property in the agency or in the proposed improvement district, with be heard. Notice of said hearing shall be given by publishing a copy of the resolution pursuant to Section 6066 of the Government Code prior to the time fixed for the hearing in a newspaper printed and published in the Antelope Valley-East Kern Water Agency, if there is a newspaper printed and published in such agency. Such notice shall also be given by posting a copy of said resolution in

six public places within the proposed improvement district at least two weeks before the time fixed for said hearing.

At the time and place so fixed, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing any person interested, including any person owning property within the agency or within the proposed improvement district, may appear and present any matters material to the questions set forth in the resolution declaring the necessity for incurring the bonded indebtedness. The board shall have power to change the purpose for which the proposed debt is to be incurred, or the amount of bonded debt to be incurred, or the boundaries of said proposed improvement district, or one or all of said matters; provided, however, that said board shall not change such boundaries so as to include any territory which will not, in its judgment, be benefited by said improvement.

The purpose, amount of bonded debt or boundaries shall not be changed by said board except after notices of its intention to do so, given by publication pursuant to Section 6061 of the Government Code in a newspaper printed and published in said Antelope Valley-East Kern Water Agency, if there is a newspaper printed and published in such agency, and by posting in six public places within said proposed improvement district. Said notice shall state the changed purpose and debt proposed and that the exterior boundaries as proposed to be changed are set forth on a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the proposed improvement district, and specify the time and place for hearing on such change, which time shall be at least 10 days after publication or posting of said notice. At the time and place so fixed, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing any person interested, including any person owning property within the agency or the proposed improvement district, may appear and present any matters material to the changes stated in the notice. At the conclusion of the hearing the board shall by resolution determine whether it is deemed necessary to incur the bonded indebtedness, and, if so, the resolution shall also state the purpose for which said proposed debt is to be incurred, the amount of the proposed debt, that the exterior boundaries of the portion of the agency which will be benefited are set forth on a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the improvement district, and that said portion of the agency set forth on said map shall thereupon constitute and be known as "Improvement District No. _____ of Antelope Valley-East Kern Water Agency," and the determinations made in said resolution shall be final and conclusive. After the formation of such improvement district within the Antelope Valley-East Kern Water Agency pursuant to this section all proceedings for the purpose of a bond election shall be limited, and shall apply only to the improvement district, and taxes for the payment of said bonds and the interest thereon shall be levied exclusively upon the taxable property in the improvement district.

After the board has made its determination of the matters required to be determined by said last mentioned resolution, and if the board deems it necessary to incur the bonded indebtedness, the board shall by a further

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resolution call a special election in said improvement district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the agency for said improvement district. Said resolution shall state: (a) that the board deems it necessary to incur the bonded indebtedness; (b) the purpose for which the bonded indebtedness will be incurred; (c) the amount of debt to be incurred; (d) the improvement district to be benefited by said indebtedness, as set forth in the resolution making determinations, and that a map showing the exterior boundaries of said improvement district is on file with the secretary of the agency, which map shall govern for all details as to the extent of the improvement district; (e) that taxes for the payment of such bonds and the interest thereon shall be levied exclusively upon the taxable property in said improvement district; (f) the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years; (g) the maximum rate of interest to be paid, which shall not exceed 8 percent per annum, payable semiannually, except that interest for the first year may be payable at the end of the said year; (h) the measure to be submitted to the voters; (i) the date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred; and (j) the designation of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct.

The board of directors shall provide for holding such special election on the day so fixed and in accordance with the provisions of the Elections Code so far as the same shall be applicable, except as herein otherwise provided. Notice of the holding of such election shall be given by publishing pursuant to Section 6066 of the Government Code the resolution calling the election prior to the date of the proposed election in at least one newspaper printed and published in the Antelope Valley-East Kern Water Agency, if there is a newspaper printed and published in such agency. Such resolution shall also be posted in three public places in such improvement district not less than two weeks prior to the date of the proposed election. No other notice of such election need be given.

The returns of such election shall be made, the votes canvassed by said board of directors within seven days following said election, and the results thereof ascertained and declared in accordance with the provisions of the Elections Code so far as they may be applicable, except as in this act otherwise provided. The secretary of the board of directors, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted.

Any action or proceeding, wherein the validity of the formation of the improvement district or of any such bonds or of the proceedings in relation thereto is contested, questioned or denied, shall be commenced within three months from the date of such election; otherwise, said bonds and all proceedings in relation thereto, including the formation of the improvement district, shall be held to be valid and in every respect legal and incontestable.

(Stats. 1959, c. 2146, p. 5163, § 69. Amended by Stats. 1969, c. 449, p. 1003, § 2; Stats. 1975, c. 130, p. 233, § 90.)

Historical and Statutory Notes

Legislative intent of Stats. 1975, c. 130, see
Historical and Statutory Notes under Public
Utilities Code § 13207.

§ 98-70. Annexation; procedure; action to contest validity

Sec. 70. Any portion of the Antelope Valley-East Kern Water Agency whether contiguous or not to an improvement district thereof may be annexed to said improvement district in the following manner. A petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by holders of title to sixty percent (60%) or more of the land in the portion proposed to be annexed, which land as so represented in said petition shall have an assessed valuation of not less than fifty percent (50%) of the land so proposed to be annexed. The petition shall contain the following: (a) a description of the area proposed to be annexed, which map shall reference to a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the area proposed to be annexed, or in any other definite manner; (b) the terms and conditions upon which said proposed area may be annexed as theretofore determined by resolution adopted by the board of directors of the agency; and (c) a prayer that the board of directors declare such area to be annexed to the improvement district. Said petition shall be accompanied by a certified check payable to the order of the agency in sufficient sum to reimburse said agency for expenses of processing and publishing the petition and preparing and making the filings required by law.

Within 10 days of the date of the filing of such petition the secretary of the agency shall examine the same and ascertain whether or not such petition is signed by the required number of property owners; and, if requested by the secretary of the agency, the board of directors shall authorize him to employ persons especially for that purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation. When the secretary of the agency has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination; and if from such examination he shall find that said petition is signed by the requisite number of property owners, or is not so signed, he shall certify that the same is sufficient, or insufficient, as the case may be.

If by the certificate of the secretary of the agency the petition is found to be insufficient, said petition may be amended by filing a supplemental petition or petitions within 10 days of the date of such certificate. The secretary of the agency shall within 10 days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided.

If his certificate shall show any such petition, or such petition as amended, to be insufficient, it shall be filed by him with the board of directors of the agency and kept as a public record, without prejudice, however, to the filing of a new petition to the same effect. But if by the certificate of the secretary such

petition, or petition as amended, is shown to be sufficient the secretary shall cause notice of hearing on the petition to be published and posted without delay.

The text of said petition shall be published pursuant to Section 6066 of the Government Code prior to the time at which the same is to be presented to the board of directors of the agency in at least one newspaper printed and published in the Antelope Valley-East Kern Water Agency, if there is a newspaper printed and published in such agency, together with a notice stating the time and place of the meeting at which the same will be presented. When contained upon one or more instruments one copy only of such petition need be published. No more than five of the names attached to said petition need appear in said publication of said petition and notice, but the number of signers shall be stated. Said notice and petition shall also be posted in three public places in the improvement district and three public places in the area proposed to be annexed, at least two weeks prior to the hearing.

The board of directors of the agency shall proceed to hear the petition at the time and place fixed therefor and any person residing within the agency, or improvement district or owning taxable property in said agency or improvement district shall be entitled to appear and be heard at such hearing. Such hearing may be continued from time to time by the board of directors of the agency. At the conclusion of the hearing, and if the board of directors finds and determines from the evidence presented at said hearing that the area proposed to be annexed to an improvement district will be benefited thereby, and that the improvement district to which said area proposed to be annexed will also be benefited thereby and will not be injured thereby, then and in such case the board of directors of the agency may, by resolution, approve such annexation, describing the territory so annexed, which may be by reference to a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the annexed area, or in any other definite manner, and the terms and conditions of annexation as theretofore determined by resolution of the board of directors.

From and after the date of the adoption of such resolution the area named therein shall be deemed added to and shall form a part of said improvement district and the taxable property therein shall be subject to taxation thereafter for the purposes of said improvement district, including the payment of the principal of and interest on bonds and other obligations of such improvement district at the time authorized and outstanding at the time of said annexation as if said annexed property had always been a part of said improvement district, and the board of directors of the Antelope Valley-East Kern Water Agency shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

Any action or proceeding wherein the validity of any such annexation is contested, questioned or denied must be commenced within three months after the date of issuance by the Secretary of State of his certificate; otherwise said

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annexation shall be held to be valid and in every respect legal and incontestable.

(Stats.1959, c. 2146, p. 5166, § 70. Amended by Stats.1963, c. 274, p. 1031, § 1; Stats.1967, c. 136, § 5.)

Cross References

Pleading, see Code of Civil Procedure § 420 et seq.

§ 98-71. Formation of improvement districts; procedure; special election; action to contest validity

Sec. 71. Whenever the board of directors deems it necessary to form an improvement district of a portion of the agency for a purpose other than the incurring of bonded indebtedness under Section 69 of this act it shall by resolution so declare and state: (a) the purpose for which the proposed improvement district is to be formed, (b) the estimated expense of carrying out said purpose, (c) that the board intends to form an improvement district of a portion of the agency which in the opinion of the board will be benefited, the exterior boundaries of which portion are set forth on a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the proposed improvement district, (d) that taxes for carrying out said purpose shall be levied exclusively upon the taxable property in said proposed improvement district, (e) that a map showing the exterior boundaries of said proposed improvement district, with relation to the territory immediately contiguous thereto, is on file with the secretary of the agency and is available for inspection by any person or persons interested, (f) the time and place for a hearing by the board on the questions of the formation of said proposed improvement district, the extent thereof, the purpose for which it is to be formed, and the estimated expense of carrying out said purpose and (g) that at said time and place any person interested, including all persons owning property in the agency or in the proposed improvement district will be heard. Notice of said hearing shall be given by publishing a copy of the resolution pursuant to Section 6066 of the Government Code prior to the time fixed for the hearing in a newspaper circulated in the Antelope Valley-East Kern Water Agency, if there is a newspaper circulated therein. Said notice shall also be given by posting a copy of said resolution in three public places within the proposed improvement district for at least two weeks before the time fixed for said hearing.

At the time and place so fixed, or at any time or place to which the hearing is adjourned, the board shall proceed with the hearing at which hearing any person interested, including all persons owning property in the agency, or in the proposed improvement district, may appear and present any matters material to the questions set forth in the resolution. At the conclusion of the hearing the board shall by resolution determine whether it is necessary to form said improvement district, and, if so, the resolution shall also state the purpose for which the proposed improvement district is to be formed, estimated expense of carrying out said purpose, that the exterior boundaries of the portion of the agency which will be benefited are set forth on a map on file with the secretary

of the agency, which map shall govern for all details as to the extent of the improvement district, and that said portion of the agency set forth on said map, shall thereupon constitute and be known as "Improvement District (A, B, C, or other letter designation) of the Antelope Valley-East Kern Water Agency," and the determinations made in said resolution shall be final and conclusive. After the formation of such improvement district within the Antelope Valley-East Kern Water Agency pursuant to this section all taxes levied for the carrying out of said purpose shall be levied exclusively upon the taxable property in the improvement district.

A copy of the resolution forming the improvement district shall be published pursuant to Section 6066 of the Government Code in a newspaper printed and published in the agency, if there is a newspaper printed and published in the agency, and a copy of said resolution shall also be posted in three public places within the proposed improvement district for at least two weeks. Said resolution shall not be effective until the 31st days after completion of said publication and/or posting. If before said effective date a petition signed by not less than 10 percent of the voters of the improvement district requesting that an election be held on the formation thereof is presented to the board of directors, said board shall call a special election in the improvement district for the purpose of submitting the question of the formation of the improvement district to the voters of said improvement district.

The board of directors shall provide for holding such special election on the day so fixed and in accordance with the provisions of the Elections Code so far as the same shall be applicable, except as herein otherwise provided. Notice of the holding of such election shall be given by publishing the resolution calling the election pursuant to Section 6066 of the Government Code prior to the date of the proposed election, in at least one newspaper printed and published in the Antelope Valley-East Kern Water Agency, if there is a newspaper printed and published in such agency. Such resolution shall also be posted in three public places in such improvement district not less than two weeks prior to the date of the proposed election. No other notice of such election need be given.

The returns of such election shall be made, the votes canvassed by said board of directors within seven days following said election, and the results thereof ascertained and declared in accordance with the provisions of the Elections Code so far as they may be applicable, except as in this act otherwise provided. The secretary of the board of directors, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the elections shall have otherwise been fairly conducted.

If from such returns it appears that a majority of the votes cast at such election were in favor of the formation of such improvement district, the formation of such improvement district shall be complete.

Any action or proceeding wherein the validity of the formation of the improvement district or of any of the proceedings in relation thereto is contested, questioned or denied, shall be commenced within three months from the effective date of the resolution forming such district, or if an election is

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held, within three months from the date of such election, otherwise the formation of the improvement district and all proceedings in relation thereto, shall be held to be valid and in every respect legal and incontestable. (Stats.1959, c. 2146, p. 5168, § 71. Amended by Stats.1961, c. 1624, p. 3521, § 4.)

Cross References

Pleading, see Code of Civil Procedure § 420 et seq.

§ 98-72. Favorable vote to incur indebtedness; issuance of bonds; series; maturity; form; sale proceeds

Sec. 72. If from such returns it appears that more than two-thirds of the votes cast in such election held pursuant to the provisions of Section 68 or of Section 69 of this act, were in favor of and assented to the incurring of such indebtedness, then the board of directors may, by resolution, at such time or times as it deems proper, issue bonds of the agency for the whole or any part of the amount of the indebtedness so authorized, and may from time to time provide for the issuance of such amounts as the necessity thereof may appear, until the full amount of such bonds authorized shall have been issued. Said full amount of bonds may be divided into two or more series and different dates fixed for each of the series. The maximum term which the bonds of any series shall run before maturity shall not exceed 40 years from the date of each series respectively.

The board of directors shall, by resolution, prescribe the form of the bonds and the form of the coupons attached thereto and fix the time when the whole or any part of the principal shall become due and payable. The payment of the first installment of principal may be deferred for a period of not more than five years from the date of the bonds or the date of the bonds of each series respectively. The bonds shall bear interest at a rate or rates not to exceed 8 percent per annum, payable semiannually, except that interest for the first year may be payable at the end of said year. The board of directors may also provide for call and redemption of bonds prior to maturity at such times and prices and upon such other terms as it may specify. A bond shall not be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon.

The denomination of the bonds shall be stated in the resolution providing for their issuance, but shall not be less than one hundred dollars (\$100). The principal and interest shall be payable in lawful money of the United States at the office of the treasurer of the district or such other place or places as may be designated, or at either place or places at the option of the holder of the bond.

The bonds shall be dated, numbered consecutively, and be signed by the president and treasurer of the agency, countersigned by the secretary of the agency, and the official seal of the agency attached. The interest coupons of such bonds shall be signed by the treasurer of said agency. All such signatures and countersignatures may be printed, lithographed or mechanically reproduced, except that one of said signatures or countersignatures to said bonds shall be manually affixed.

If the bond election proceedings have been limited to and have applied only to an improvement district within said district, said bonds are bonds of the agency and shall be issued in the name of the agency and shall be designated "Bonds of the Antelope Valley-East Kern Water Agency for Improvement District No. _____" and each bond and all interest coupons thereof shall state that taxes levied for the payment thereof shall be levied exclusively upon the taxable property in said improvement district.

Before selling the bonds, or any part thereof, the board of directors shall give notice inviting sealed bids in such manner as it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if said board determines that the bids received are not satisfactory as to price or responsibility of the bidders, it may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

The proceeds arising from the sale of bonds shall be paid into the treasury of the agency and placed to the credit of a special improvement fund and expended only for the purpose for which the indebtedness was created; provided, however, that when said purpose has been accomplished any moneys remaining in said special improvement fund may be transferred to the fund to be used for the payment of principal of and interest on the bonds. Said remaining moneys remaining from the sale of bonds of the agency may also be used for some other agency purpose. Such moneys remaining from the sale of bonds of the agency for an improvement district therein may also be used for any purpose which will benefit the property in the improvement district. Said moneys may not be used for said other agency purpose or improvement district purpose until two-thirds of the qualified voters of said agency or improvement district have consented thereto at a special election called in said agency or improvement district by the board of directors. Notice of said election shall be given in the manner provided for bond elections in said agency or improvement district, as the case may be, and in other respects the election shall be conducted as are other agency elections.

(Stats.1959, c. 2146, p. 5170, § 72. Amended by Stats.1969, c. 449, p. 1006, § 3; Stats.1975, c. 130, p. 236, § 91.)

Historical and Statutory Notes

Legislative intent of Stats.1975, c. 130, see
Historical and Statutory Notes under Public
Utilities Code § 13207.

§ 98-72.1. Issuance of bonds without bond election; conditions

Sec. 72.1. The board may, without a vote of the electors, provide for the issuance of, and issue, general obligation bonds of an improvement district thereof subject to the following conditions:

- (a) The principal amount of such bonds does not exceed the then unissued balance of the principal amount of bonds authorized at an election held in Improvement District No. 1 on November 26, 1963, or at an election held in Improvement District No. 3 on November 24, 1964.

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(b) The bonds are issued for the same purpose as that for which the unissued bonds referred to in subdivision (a) were authorized.

(c) The bonds are issued in accordance with the provisions of this act, except for the requirement of a bond election.

Bonds issued pursuant to this section may bear interest at a rate or rates not to exceed 8 percent per year, payable semiannually, except that interest for the first year may be payable at the end of that year. When bonds are issued pursuant to this section, the unissued bonds referred to in subdivisions (a) and (b) of this section in a principal amount at least equal to the principal amount of bonds issued pursuant to this section, shall be canceled by order of the board and shall not be issued.

(Added by Stats.1969, c. 449, p. 1007, § 4. Amended by Stats.1975, c. 130, p. 237, § 92.)

Historical and Statutory Notes

Legislative intent of Stats.1975, c. 130, see Historical and Statutory Notes under Public Utilities Code § 13207.

§ 98-73. Exemption of bonds from taxation

Sec. 73. Any bonds issued by the Antelope Valley-East Kern Water Agency are hereby given the same force, value and use as bonds issued by any city and shall be exempt from all taxation within the State of California.

(Stats.1959, c. 2146, p. 5171, § 73.)

Library References

Taxation ☞ 218.
WESTLAW Topic No. 371.
C.J.S. Taxation § 260.

§ 98-74. Construction of works along and across streets, watercourses, railways, ditches, etc.; right of way over public lands

Sec. 74. The board of directors shall have power to construct works along and across any stream of water, watercourse, street, avenue, highway, canal, ditch or flume, or across any railway which the route of said works may intersect or cross; provided, such works are constructed in such manner as to afford security for life and property, and said board of directors shall restore the crossings and intersections to their former state as near as may be, or in a manner not to have impaired unnecessarily their usefulness. Every company whose right of way shall be intersected or crossed by said works shall give with said board of directors in forming said intersections and crossings and grant the rights therefor. The right of way is hereby given, dedicated and set apart to locate, construct and maintain such works along and across any street or public highway and over and through any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to cities within the State. Any use, under this section, of a public highway now or hereafter constituted a

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state highway shall be subject to the provisions of Chapter 3 of Division 1 of the Streets and Highway Code.

(Stats.1959, c. 2146, p. 5172, § 74.)

Cross References

Rights of way, see Civil Code § 801 et seq.

Library References

Waters and Water Courses ⇨ 192.
WESTLAW Topic No. 405.
C.J.S. Waters § 256.

Sovereign immunity study. Cal.Law Revision
Comm. (1963) Vol. 5, p. 93.

§ 98-75. Claims against agency; law governing; preparation; presentation; audit

Sec. 75. Claims for money or damages against the agency are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such 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 counties.

(Added by Stats.1961, c. 2011, p. 4225, § 28. Amended by Stats.1963, c. 1715, p. 3410, § 96.)

Historical and Statutory Notes

Former § 98-75, added by Stats.1959, c. 2146, p. 5172, § 75, relating to claims against agency, was repealed by Stats.1961, c. 2011, p. 4225, § 27.

Applicability of Stats.1963, c. 1715, p. 3369, see Historical and Statutory Notes under Government Code § 900.

Cross References

Claims against counties, see Government Code § 29700.

Library References

Claims actions and judgments against public entities and public employees, recommen-

dation. Cal.Law. Revision Comm. (1963) Vol. 4, p. 1007 et seq.

§ 98-76. Standby charge

Sec. 76. The agency, by ordinance, may fix, on or before the first day of July in any calendar year, a water standby or availability charge within the agency or in any improvement district thereof to which water is made available by the agency through underground or by surface facilities, whether the water is actually used or not. The standby charge shall not exceed ten dollars (\$10) per acre per year for each acre of land within the agency or any improvement district thereof or ten dollars (\$10) per year for any parcel of less than one acre. The ordinance fixing a standby charge shall be adopted by the board only after adoption of a resolution setting forth the particular schedule or schedules of charges proposed to be established by ordinance and after notice and hearing in the manner prescribed in the District Reorganization Act of 1965 (commenc-

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ing with Section 56000 of the Government Code). The ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability. On or before the third Monday in August, the board shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of each parcel of land within the agency upon which a standby charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the district on each parcel of land. The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other tax it levies, a standby charge in the amounts for the respective parcels fixed by the board. All county officers charged with the duty of collecting taxes shall collect agency standby charges with the regular tax payments to the county. Such charges shall be collected in the same form and manner as county taxes are collected and shall be paid to the agency. Charges fixed by the agency shall constitute a lien on the property benefited thereby as of the same time and in the same manner as does the tax lien securing such annual taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection.

(Added by Stats.1976, c. 1463, p. 4568, § 5.)

Historical and Statutory Notes

The repealed section, added by Stats.1959, c. 2146, p. 5173, § 76, related to liability of directors, officers, agents or employees.

Amendment of § 98-76 by Stats.1963, c. 1683, p. 3301, § 13, was repealed by § 21 of that act when Stats.1963, c. 1681, p. 3266, took effect.

Liability of public employees, see, now, Government Code § 820 et seq.

Operative effect of Stats.1963, c. 1685, p. 3307, see Historical and Statutory Notes under repeal line for Water Code § 8535.

Library References

Waters and Water Courses § 180.
WESTLAW Topic No. 405.
C.J.S. Waters § 230.

§ 98-77. Water rates

Sec. 77. The board of directors, so far as practicable, shall fix such rate of rates for water in the agency and in each improvement district therein as will result in revenues which will pay the operating expenses of the agency, and the improvement district, provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on any bonded debt, and provide a sinking or other fund for the

payment of the principal of such debt as it may become due. Said rates for water in each improvement district may vary from the rates of the agency and from other improvement districts therein.

(Stats.1959, c. 2146, p. 5173, § 77.)

Library References

Waters and Water Courses ⇐203(6).

WESTLAW Topic No. 405.

C.J.S. Waters § 286 et seq.

§ 98-77.1. Facility capacity fee

Sec. 77.1. (a) In addition to other powers provided in this act, the agency may establish and impose a one-time facility capacity fee as provided in Section 66013 of the Government Code, which is in the nature of a connection fee, for the right to make a new retail connection to the water distribution system of any retail water distributor within the agency which obtains all or a portion of its water supplies from the agency. The consumer for which the retail connection is made shall be liable for the fee. Fees shall be adopted, established, and imposed only if the board of directors of the agency complies with this section and Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code, and it shall not be necessary for the retail water distributor to comply with these provisions separately. However, a facility capacity fee may not be imposed within a retail water distributor's jurisdiction unless the appropriate retail water distributor enters into an agreement with the agency.

Prior to imposing the fee, the board of directors shall assess the sufficiency of (1) existing facilities for water importation, production, treatment, transportation, and delivery, (2) related works and real property, and (3) water supplies. Sufficiency shall be defined as meeting and not exceeding existing and anticipated demand of the retail agencies served by the agency.

(b) If the board determines that existing facilities, related works and real property, and water supplies are not sufficient, the board may do the following:

(1) Adopt plans for the following:

(A) Obtaining or constructing additional facilities, works, real property, and supplies of water.

(B) Increasing or enlarging existing capacity and facilities for obtaining, importing, producing, treating, storing, and delivering the additional quantity of water.

(C) Financing the cost of acquiring or constructing those facilities, works, property, improvements, and supplies of water and for allocating that cost among lands within the agency.

(D) Allocating water supplies and capacity in existing and future planned facilities.

(2) Establish facility capacity fees, if any, which shall be imposed to finance the cost of acquiring or constructing facilities, works, real property, and supplies of water to satisfy anticipated demand.

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(c) The board may contract for the collection of the fee with either of the following:

(1) The counties or cities within the agency for the collection of the fee along with fees related to the improvement of property.

(2) The retail water distributor.

(d) Any action taken by the board of directors pursuant to this section shall be by resolution.

(Added by Stats.1990, c. 300 (A.B.3790), § 1. Amended by Stats.1990, c. 1572 (A.B. 3228), § 28.)

Historical and Statutory Notes

This section first took effect in its 1990 1990 amendment became effective on the same amended form since the 1990 addition and the date.

§ 98-78. Taxation; purpose

Sec. 78. If the revenues of the agency, or of any improvement district therein, are or in the judgment of the board of directors will probably be inadequate for any cause to pay the principal of or interest on any bonded debt of the agency, or any improvement district thereof, as it becomes due and also the amounts set forth in Section 77 of this act, the board of directors must cause a tax to be levied, as herein provided, sufficient to provide for such deficit and to pay the amount of such principal and interest as will become due before the proceeds of a tax levied at the next general tax levy will be available (Stats.1959, c. 2146, p. 5173, § 78.)

Cross References

County property taxes,

Assessment, see Revenue and Taxation Code § 201 et seq.

Collection, see Revenue and Taxation Code § 2501 et seq.

Equalization, see Revenue and Taxation Code § 1601 et seq.

Levy, see Government Code § 29100 et seq.; Revenue and Taxation Code § 2151 et seq.

Redemption, see Revenue and Taxation Code § 4101 et seq.

Sale of property for delinquency, see Revenue and Taxation Code § 3351 et seq.

Library References

Waters and Water Courses ⇨198.

WESTLAW Topic No. 405.

C.J.S. Waters §§ 229, 262.

§ 98-79. Tax rates; lien of tax

Sec. 79. The board of directors shall determine the amounts necessary to be raised by taxation during the fiscal year and shall fix the rate or rates of tax to be levied which will raise the amounts of money required by the agency, and on or before the third Monday in August, the board of directors shall certify to the board of supervisors and to the county auditor the rate or rates so fixed and shall furnish a statement of any delinquent and unpaid charges for water and other services, or either, requested in writing by the owner of the property that remain delinquent and unpaid for 60 days or more on July 1st. The county auditor shall compute and enter in the county assessment roll the respective

sums to be paid as an agency tax on the property in the agency, using the rate or rates of levy as fixed by the board and the assessed value as found on the assessment roll for the property subject to the particular tax. The amount of any charges for water and other services included in the statement of delinquent and unpaid charges shall be added to and become a part of the annual taxes next levied upon the property upon which the water for which the charges are unpaid was used and upon the property subject to the charges for any other agency services. The amount of unpaid charges shall constitute a lien on that property as of the same time and in the same manner as does the tax lien securing such annual taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such charges, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the charges relating to such property shall be transferred to the unsecured roll for collection. The county shall deduct from the charges collected an amount sufficient to compensate the county for costs incurred in collecting such delinquent and unpaid charges. The amount of such compensation shall be fixed by agreement between the board of supervisors and the district's board of directors. A district shall notify the holder of title to land whenever delinquent and unpaid charges for water and other services or either which could become a lien on such property pursuant to this section remain delinquent and unpaid for 60 days. This procedure may be used to collect delinquent and unpaid water charges from corporations, including mutual water companies, as well as individuals.

Notwithstanding any other provision of this act taxes for the general administrative purposes of the agency should be levied on all property within the agency or portion thereof subject to the particular tax and the aggregate tax levied for such administrative purposes shall for the fiscal year not exceed ten cents (\$0.10) on each one hundred dollars (\$100) of assessed valuation on the taxable property in the agency or such portion thereof. This shall be exclusive of any tax levied to meet the payment of interest or principal on any bonded indebtedness of the agency or any indebtedness arising out of any contractual obligations with the federal, state, county or city governments or political subdivision thereof including this agency. And it shall be the duty of all county officers charged with the duty of collecting taxes to collect such tax in time, form, and manner as county taxes are collected, and when collected to pay the same to the agency. Taxes for the payment of a bonded debt and the interest thereon shall be a lien on all the property benefited thereby as stated in the resolution of the board of directors declaring the necessity to incur the debt. All taxes for other purposes of the agency shall be a lien on all the property in the agency subject to the respective tax. Agency taxes, whether for payment of a bonded indebtedness and the interest thereon or for other purposes, shall be of the same force and effect as other liens for taxes, and their collection may be

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enforced by the same means as provided for the enforcement of liens for state and county taxes.

(Stats.1959, c. 2146, p. 5174, § 79. Amended by Stats.1961, c. 1624, p. 3523, § 5; Stats.1967, c. 136, § 6; Stats.1976, c. 1463, p. 6569, § 6.)

§ 98-80. Ordinances; methods of passing

Sec. 80. Ordinances may be passed by the voters of this water agency organized under the provisions of this act in accordance with the methods provided by the Elections Code for direct legislation in cities.

(Stats.1959, c. 2146, p. 5174, § 80.)

Cross References

Adoption, repeal, amendment of ordinances in cities, see Elections Code § 9217.

§ 98-81. Veto by voters; proceedings

Sec. 81. Ordinances may be disapproved and thereby vetoed by the voters of this agency by proceeding in accordance with the methods provided by the Elections Code for protesting against legislation in cities.

(Stats.1959, c. 2146, p. 5175, § 81.)

Cross References

Protesting against legislation in cities, see Elections Code § 9237.

§ 98-82. Annexation of portions of county; procedure

Sec. 82. Any portion of a county in which the Antelope Valley-East Kern Water Agency is situated, or any city, situated within such county, or both, may be added to the Antelope Valley-East Kern Water Agency organized under the provisions of this act, and such cities need not be contiguous and such unincorporated territory may consist of one or more parcels which need not be contiguous one with the other or with any such cities and such annexing area or areas need not be contiguous with the agency. Such annexation shall occur in the following manner. A petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by voters residing within the boundaries of the area proposed to be annexed equal in number to at least 10 per centum of the number of such voters voting for all candidates for the office of Governor of this state at the last general election prior to the filing of such petition; provided, that where one or more cities are included in such proposed annexation, such petition must be signed by at least 10 per centum of the voters of each such city so voting at such election. Such petition shall set forth and describe the boundaries of the area proposed to be annexed and shall contain a prayer that such area be annexed to the Antelope Valley-East Kern Water Agency.

The text of such petition shall be published once a week for at least two weeks, the last publication to be made not less than one week nor more than four weeks before the time at which the same is to be presented to the board of directors of the agency in at least one, but not to exceed three, newspapers

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printed and published in the Antelope Valley-East Kern Water Agency, together with a notice stating the time of the meeting at which the same will be presented. When contained upon one or more instruments, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in said publication of said petition and notice, but the number of signers shall be stated.

Within 10 days of the date of the filing of such petition the secretary of the agency shall examine the same and ascertain whether or not such petition is signed by the requisite number of voters; and if requested by the secretary of the agency, the board of directors shall authorize him to employ persons especially for that purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation. When the secretary of the agency has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination; and if from such examination he shall find that said petition is signed by the requisite number of voters or is not so signed, he shall certify that the same is sufficient or insufficient as the case may be.

If, by the certificate of the secretary of the agency, the petition is found to be insufficient, he shall also certify to the number of voters required to make such petition sufficient, and it may be amended by filing a supplemental petition or petitions within 10 days of the date of such certificate. The secretary of the agency shall, within 10 days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided.

If his certificate shall show any such petition, or such petition as amended, to be insufficient, it shall be filed by him with the board of directors of the agency and kept as a public record, without prejudice, however, to the filing of a new petition to the same effect. But if, by the certificate of the secretary, such petition, or petition as amended, is shown to be sufficient, the secretary shall present the same to the board of directors, without delay.

If any supplemental petition be filed, all the signatures appended to the petition or to the supplemental petition or petitions shall be considered in determining the number of voters signing the petition.

After an election for the annexation of such area to the agency the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

Such petition may be granted by ordinance of the board of directors of such agency. In granting such petition, such board of directors may fix in said ordinance the terms and conditions upon which such annexation may occur, and such terms and conditions may provide, among other things, for the levy by the Antelope Valley-East Kern Water Agency of special taxes upon taxable property within such annexed area or areas in addition to the taxes elsewhere in this act authorized to be levied by such Antelope Valley-East Kern Water Agency, and in case such terms and conditions shall provide for the levy of such special taxes, the board of directors, in fixing such terms and conditions, shall

specify the aggregate amount to be so raised and the number of years prescribed for raising such aggregate sum and that substantially equal annual levies will be made for the purpose of raising such sum over the period so prescribed. Such terms and conditions also may provide, among other things, that a special water rate may be fixed from time to time by the board of directors for the area or areas proposed to be annexed. If such petition is granted, the proposition of such annexation subject to the terms and conditions so fixed, shall be submitted to the vote of the voters in the proposed addition, at an election called by the board of directors and held, as herein provided, within 70 days after the effective date of such ordinance. Notice of such election shall be given by publication in a newspaper of general circulation published in the Antelope Valley-East Kern Water Agency once a week for three successive weeks, the last publication to be not more than four weeks nor less than one week prior to the date fixed for such election. Such notice shall describe the boundaries of the area or areas so proposed to be annexed and shall designate such territory by some appropriate name, or other words of identification, by which such territory may be referred to and indicated upon the ballot to be used at any election at which the question of such annexation is submitted, as in this act provided. Such notice also shall contain the substance of the terms and conditions fixed by the board of directors, as herein provided. The measure so submitted at such election shall be stated on the ballot substantially as follows: "Shall (giving the name or other designation of the territory proposed to be annexed, as stated in the notice of election) be annexed to the Antelope Valley-East Kern Water Agency subject to the terms and conditions fixed by the board of directors of said agency?" At the right of such proposition there shall be printed the words "yes" and "no" with voting squares. The board of directors shall canvass the votes cast at such election and if such proposition is approved by a majority of the voters voting thereon at such election, the president and secretary of the board of directors shall certify that fact to the Secretary of State and to the county recorders of the counties in which such agency is located. Upon receipt of such last-mentioned certificate the Secretary of State shall, within 10 days, issue his certificate reciting the passage of said ordinance and the addition of said area or areas to said agency. A copy of said certificate shall be transmitted to, and filed with, the county clerks of the counties in which the Antelope Valley-East Kern Water Agency is situated. From and after the date of such certificate, the area or areas named therein shall be deemed added to, and shall form a part of, said Antelope Valley-East Kern Water Agency, and the taxable property therein shall be subject to taxation thereafter for the purposes of said Antelope Valley-East Kern Water Agency, including the payment of bonds and other obligations of such agency at the time authorized or outstanding, and the board of directors of such Antelope Valley-East Kern Water Agency shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

(Stats.1959, c. 2146, p. 5175, § 82. Amended by Stats.1967, c. 136, § 7.)

Library References

Waters and Water Courses \Rightarrow 183½.
WESTLAW Topic No. 405.
C.J.S. Waters § 243.

§ 98-83. Uninhabited territory; annexation proceedings

Sec. 83. Uninhabited territory within a county or contiguous county to which the Antelope Valley-East Kern Water Agency is situated may be added to such agency pursuant to the provisions of this section. For the purposes hereof, territory shall be deemed uninhabited if less than 12 voters reside therein at the time of the filing of the petition for annexation or the initiation of proceedings by resolution of the board. Such uninhabited territory may consist of unincorporated territory only or of incorporated territory lying within the boundaries of one or more cities, or of both such unincorporated and incorporated territory; provided, that incorporated territory lying within the boundaries of any city may be added to such agency in accordance with the provisions of this section only if upon the annexation of such uninhabited territory the entire corporate area of such city will be included in such agency. Such uninhabited territory, whether consisting of unincorporated territory or of incorporated territory or of both such unincorporated and incorporated territory, may consist of one or more parcels, which need not be contiguous one with the other or with the agency.

Proceedings for the annexation of uninhabited territory to the agency may be initiated by petition. Such petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by the owners of not less than one-fourth of the land in such territory by area and by assessed value as shown on the last equalized assessment roll of the county or counties in which such territory is situated. A guardian, executor, administrator, or other person holding property in a trust capacity under appointment of court, may sign any petition or protest provided for in this section, when authorized by the proper court, which authorization may be made without notice. The last equalized assessment roll of said county or counties is prima facie evidence of the ownership of the land or lands lying within such territory proposed to be annexed. Such petition shall set forth and describe the boundaries of the area proposed to be annexed to the Antelope Valley-East Kern Water Agency pursuant to the provisions of this section.

The secretary shall present such petition to the board of directors of the agency at its next meeting, and said board, without delay, shall pass a resolution giving notice of the proposed annexation. Said resolution shall state that such petition has been filed, shall set forth and describe the boundaries of the territory proposed to be annexed, shall contain the terms and conditions of annexation, if any, prescribed by the board as hereinafter authorized, shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the hearing thereof, written protest to the annexation of such territory, or to the annexation of such territory upon such terms and conditions, as the case may be, and shall fix the

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time and place of the meeting of the board at which the board will hear such protests.

The board of directors of the agency by resolution may initiate proceedings for the annexation of uninhabited territory to the agency. Such resolution shall declare that proceedings have been initiated by the board of directors under the provisions of this section, shall state the reason for proposing such annexation, shall set forth and describe the boundaries of the territory proposed to be annexed, shall contain the terms and conditions of annexation, if any, prescribed by the board as hereinafter authorized, shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the hearing thereof, written protest to the annexation of such territory, or the annexation of such territory upon such terms and conditions, as the case may be, and shall fix the time and place of the meeting of the board at which the board will hear such protests.

Said hearing shall be commenced not less than 20 nor more than 40 days after the passage of the resolution of the board of directors. The secretary of the agency shall cause the text of the resolution to be published once each week for at least two weeks, the last publication to be made not less than one week nor more than four weeks before the time so fixed for the hearing, in at least one, but not to exceed three, newspapers printed and published in the agency.

After the date of issuance by the Secretary of State of his certificate reciting the passage of the ordinance approving the annexation, and the addition of the uninhabited territory to the agency, the sufficiency of the petition or resolution shall not be subject to judicial review or be otherwise questioned.

At any time prior to the hour set for the hearing of protests, any owner of property within the territory proposed to be annexed may file with the secretary of the agency written protest against the annexation, or against the annexation upon the terms and conditions specified in the resolution, as the case may be. The protest shall state the name of the owner of the property affected, and the description and area of such property in general terms. At the hearing, which may be adjourned from time to time, the board of directors shall hear and pass upon all protests so filed. If such protests are so filed by the owners of one-half of the value of the territory proposed to be annexed as shown by the last equalized assessment roll of the county or counties, further proceedings shall not be taken. If such protest is not made, the board of directors shall approve or disapprove the annexation by ordinance. Any ordinance approving such annexation shall set forth and describe the boundaries of the territory to be annexed and the terms and conditions of annexation, if any, prescribed by the board as hereinafter authorized. If the board of directors disapproves the annexation, or the annexation subject to such terms and conditions, as the case may be, a new proceeding to annex any of the same territory shall not be initiated under this section for a period of 12 months from the effective date of the ordinance.

The board of directors may approve the annexation of such territory upon terms and conditions fixed by the board in the manner hereinafter provided. Such terms and conditions may provide, among other things, for the levy by the

Antelope Valley-East Kern Water Agency of special taxes upon taxable property within such annexed area or areas in addition to the taxes elsewhere in this act authorized to be levied by the Antelope Valley-East Kern Water Agency, and in case such terms and conditions shall provide for the levy of such special taxes, the board of directors, in fixing such terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising such aggregate sum and that substantially equal annual levies will be made for the purpose of raising such sum over the period so prescribed. Such terms and conditions also may provide, among other things, that a special water rate may be fixed from time to time by the board of directors for the area or areas proposed to be annexed. The board shall propose such terms and conditions either in the resolution adopted subsequent to the filing of a petition for annexation or in the resolution initiating the proceedings, as the case may be, or in a resolution adopted by the board at the hearing. Terms and conditions proposed in a prior resolution may be amended and the amended terms and conditions proposed in a resolution adopted by the board at the hearing. If such terms and conditions, or amended terms and conditions, are proposed by the board in a resolution adopted at the hearing, the board shall adjourn the hearing for not less than 20 nor more than 40 days, to a time and place to be fixed in such resolution, and said resolution shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the adjourned hearing, written protest to the annexation of such territory upon such terms and conditions. The secretary of the agency shall cause the text of the resolution to be published for the time and in the manner required for publication of the resolution giving notice of the original hearing. If prior to the hour set for the adjourned hearing, written protests, in the form hereinabove prescribed, to the annexation of such territory subject to such terms and conditions, are filed with the secretary of the agency by the owners of one-half of the value of said territory as shown by the last equalized assessment roll of the county or counties, further proceedings shall not be taken. If such protest is not made, the board of directors shall by ordinance approve or disapprove the annexation. If approved, such annexation shall be subject to the terms and conditions or amended terms and conditions, so proposed by resolution of the board, which terms and conditions shall be set forth in the ordinance.

When an ordinance approving annexation of uninhabited territory becomes effective, the president and secretary of the board of directors shall file with the Secretary of State a certified copy of the ordinance. Upon receipt of the certified copy of the ordinance, the Secretary of State shall within 10 days, issue his certificate reciting the passage of said ordinance and the addition of said area or areas to said agency. A copy of said certificate shall be transmitted to, and filed with, the county clerks of the counties in which the Antelope Valley-East Kern Water Agency is situated. From and after the date of such certificate, the area or areas named therein shall be deemed added to, and shall form a part of, said agency, and the taxable property therein shall be subject to taxation thereafter for the purposes of said agency, including the payment of bonds and other obligations of such agency at the time authorized or outstand-

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ing, and the Board of Directors of the Antelope Valley-East Kern Water Agency shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

Notwithstanding the eligibility of any territory for annexation to the agency pursuant to the provisions of this section, the procedure herein prescribed shall not be deemed exclusive and such territory may be annexed to such agency as a separate parcel, or as part of a larger parcel, of territory annexed under the provisions of Section 82 of this act.

(Stats.1959, c. 2146, p. 5177, § 83. Amended by Stats.1967, c. 136, § 8.)

§ 98-84. Exclusion of inhabited territory; proceedings

Sec. 84. Territory included within the Antelope Valley-East Kern Water Agency may be excluded from such agency; provided, that where any part of the corporate area of any city is included in the territory proposed to be excluded from the agency, the whole of the corporate area of such city, or part thereof, then included within such agency shall be included in the territory so proposed to be excluded from such agency. Such territory may consist of one or more parcels, which need not be contiguous one with the other.

Proceedings for the exclusion of territory from the agency may be initiated by petition. Such petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by voters residing within the boundaries of the area proposed to be excluded equal in number to at least fifteen (15) percentum of the number of such voters voting for all candidates for the office of Governor of this state at the last general election prior to the filing of such petition and signed by owners of at least 25 percent of the land sought to be excluded; provided, that where one or more cities, or parts thereof, are included in the area so proposed to be excluded, such petition must be signed by at least fifteen (15) percentum of the voters of each such city, or part thereof, so voting at such election and must be signed by owners of at least 25 percent of the land sought to be excluded from each such city or part thereof.

Such petition may consist of any number of separate instruments and must be filed with the secretary of the agency. Such petition shall be accompanied by a certified check in the amount of one thousand dollars (\$1,000) which shall be deposited in the treasury of the agency to be used for the purpose of defraying the costs of the election and other procedural expenses. The funds so deposited shall be used solely for such purpose, and any funds, remaining after the completion of the proceedings shall be refunded to the person whose name appears on the petition or first instrument of the petition filed with the agency.

Such petition shall set forth and describe the boundaries of the area proposed to be excluded, shall state the reason for proposing such exclusion and shall contain a prayer that such area be excluded from the agency.

Within ten (10) days of the date of filing of such petition, the secretary of the agency shall submit the description to the boundary commission of the county in which the area to be excluded lies, and the secretary of the agency after

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receiving report of such boundary from said commission shall examine the same and ascertain whether or not such petition is signed by the requisite number of voters and if requested by the secretary of the agency, the board of directors shall authorize him to employ persons especially for that purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation. When the secretary of the agency has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination; and if from such examination he shall find that said petition is signed by the requisite number of voters, or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be.

If, by the certificate of the secretary of the agency, the petition is found to be insufficient, he shall also certify to the number of voters required to make such petition sufficient, and it may be amended by filing a supplemental petition or petitions within ten (10) days of the date of such certificate. The secretary of the agency shall, within ten (10) days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided.

If any supplemental petition be filed, all the signatures appended to the petition or to the supplemental petition or petitions shall be considered in determining the number of voters signing the petition.

If his certificate shall show any such petition, or such petition as amended, to be insufficient, it shall be filed by him with the board of directors of the agency and kept as a public record, without prejudice, however, to the filing of a new petition to the same effect. But if, by the certificate of the secretary, such petition, or petition as amended is shown to be sufficient, the secretary shall present the same to the board of directors without delay.

The text of such petition shall be published once each week for at least two weeks, the last publication to be made not less than one week nor more than four weeks, before the time at which the same is to be presented to the board of directors of the agency in at least one, but not to exceed three, newspapers printed and published in such agency, together with a notice stating the time of the meeting at which the same will be presented. When contained upon more than one instrument, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated.

After an election for the exclusion of such area from the agency the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

The board of directors of the agency, by resolution, may initiate proceedings for the exclusion of territory from such agency. Such resolution shall describe the boundaries of the area proposed to be excluded, shall state the reason for proposing such exclusion, shall require all persons interested in the proposed exclusion to appear before the board and be heard as to why said area should

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not be so excluded, shall fix the time of the meeting of the board at which persons so interested will be heard, and shall direct the secretary of the agency to give notice thereof. The secretary whereupon shall cause the text of said resolution and a notice of the time and place of said hearing to be published once each week for at least two weeks, the last publication to be made not less than one week nor more than four weeks, before the time so fixed for the hearing, in at least one, but not to exceed three, newspapers printed and published in the agency.

After an election for the exclusion of such area from the agency the sufficiency of such resolution shall not be subject to judicial review or be otherwise questioned.

If the proceedings for exclusion have been initiated by petition, such petition shall be granted by ordinance of the board of directors of such agency. If such proceedings have been initiated by resolution, the board of directors shall hear all persons interested in the proposed exclusion who appear at the hearing, the board may determine from time to time, and after the conclusion of the hearing, the board may determine by ordinance that such area should be excluded from the agency. When such petition is granted or if such determination is made, the proposition of such exclusion shall be submitted to the vote of the voters within the area proposed to be excluded, at an election called by the board of directors and held, as herein provided, within 70 days after the effective date of such ordinance. Notice of such election shall be given by publication in a newspaper of general circulation published in the agency once a week for three successive weeks, the last publication to be not more than four weeks nor less than one week, prior to the date fixed for such election. Such notice shall describe the boundaries of the area so proposed to be excluded and shall designate such area by some appropriate name, or other words of identification, by which such area may be referred to and indicated upon the ballot to be used at any election at which the question of such exclusion is submitted, as in this act provided. The measure so submitted at such election shall be stated on the ballot substantially as follows:

"Shall (giving the name or other designation of the area proposed to be excluded, as stated in the notice of the election) be excluded from the Antelope Valley-East Kern Water Agency?"

At the right of such proposition there shall be printed the words, "Yes" and "No" with voting squares. The board of directors shall canvass the votes cast at such election and if such proposition is approved by a majority of the voters voting thereon at such election, the president and secretary of the board of directors shall certify that fact to the Secretary of State. All elections on propositions for the withdrawing of territory shall be combined, when possible, with the next ensuing primary or general election.

Upon receipt of such last-mentioned certificate, the Secretary of State shall, within 10 days, issue his certificate reciting the passage of said ordinance and the exclusion of said area from said agency. A copy of said certificate shall be transmitted to, and filed with, the county clerk of the county or counties in which the Antelope Valley-East Kern Water Agency is situated. From and after

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the date of such certificate, the area named therein shall be deemed excluded from, and shall no longer form a part of, said Antelope Valley-East Kern Water Agency, but the taxable property within such excluded area shall continue taxable by the Antelope Valley-East Kern Water Agency for the purpose of paying the bonded or other indebtedness of the Antelope Valley-East Kern Water Agency outstanding or contracted for at the time of such exclusion and until such bonded or other indebtedness shall have been satisfied, to the same extent that such property would be taxable for such purpose if such exclusion had not occurred.

(Stats.1959, c. 2146, p. 5181, § 84. Amended by Stats.1961, c. 1624, p. 3524, § 6; Stats.1965, c. 609, p. 1943, § 1.)

Notes of Decisions

Taxation 1

1. Taxation

Provision in this section to effect that taxable property within any area detached from local agency would continue to be taxable for purpose of paying bonded indebtedness, precluded local agency formation commission from relieving detached territory of responsibility of paying taxes and assessments, notwithstanding Gov.

Code §§ 56844(c) and 57354 permitting local agency formation commissions to make provisions for payment of principal and interest on outstanding bonded indebtedness as condition for their approval of organizational changes; in enacting later legislation, legislature did not intend its general provisions to control over specific provisions of this section providing protection for bondholders. *Antelope Valley-East Kern Water Agency v. Local Agency formation Com.* (App. 2 Dist. 1988) 251 Cal.Rptr. 593, 204 Cal.App.3d 990.

§ 98-85. Exclusion of uninhabited territory; proceedings

Sec. 85. Uninhabited territory included within the Antelope Valley-East Kern Water Agency may be excluded from such agency pursuant to the provisions of this section. For the purposes hereof, territory shall be deemed uninhabited if less than 12 voters reside therein at the time of the filing of the petition for exclusion or the initiation of proceedings by resolution of the board. Incorporated territory lying within the boundaries of any city may be excluded from such agency in accordance with the provisions of this section only if upon the exclusion of such uninhabited territory no part of the corporate area of such city will be included in such agency. Such uninhabited territory may consist of one or more parcels, which need not be contiguous one with the other.

Proceedings for the exclusion of uninhabited territory from the agency may be initiated by petition. Such petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by the owners of not less than one-fourth of the land in such territory by area and by assessed value as shown on the last equalized assessment roll of the county or counties in which such territory is situated. A guardian, executor, administrator, or any person holding property in a trust capacity under appointment of court may sign any petition or protest provided for in this section, when authorized by the proper court, which authorization may be made without notice. The last equalized assessment roll of said county or counties is prima facie evidence of the ownership of the land or lands lying within such territory proposed to be excluded. Such petition shall set forth and describe the boundaries of the area proposed to be excluded, shall state the reason for

proposing such exclusion, and shall contain a prayer that such area be excluded from the Antelope Valley-East Kern Water Agency pursuant to the provisions of this section.

The secretary shall present such petition to the board of directors of the agency at its next meeting, and said board, without delay, shall pass a resolution giving notice of the proposed exclusion. Said resolution shall state that said petition has been filed, shall set forth and described the boundaries of the territory proposed to be excluded, shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the hearing thereof, written protest to the exclusion of such territory, and shall fix the time and place of the meeting of the board at which the board will hear such protests.

The board of directors of the agency by resolution may initiate proceedings for the exclusion of uninhabited territory from such agency. Such resolution shall declare that proceedings have been initiated by the board of directors under the provisions of this section, shall state the reason for proposing such exclusion, shall set forth and describe the boundaries of the territory proposed to be excluded, shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the hearing thereof, written protest to the exclusion of such territory, and shall fix the time and place of the meeting of the board at which the board will hear such protests.

Said hearings shall be commenced not less than 20 nor more than 40 days after the passage of the resolution of the board of directors. The secretary of the agency shall cause the text of the resolution to be published once each week for at least two weeks, the last publication to be made not less than one week nor more than four weeks before the time so fixed for the hearing, in at least one, but not to exceed three, newspapers published in the agency.

After the date of issuance by the Secretary of State of his certificate reciting the passage of the ordinance approving the exclusion, and the exclusion of the uninhabited territory from the agency, the sufficiency of the petition or resolution shall not be subject to judicial review or be otherwise questioned.

At any time prior to the hour set for the hearing of protests, any owner of property within the territory proposed to be excluded may file with the secretary of the agency written protest against the exclusion. The protest shall state the name of the owner of the property affected, and the description and area of such property in general terms. At the hearing, which may be adjourned from time to time, the board of directors shall hear and pass upon all protests so filed. If such protests are so filed by the owners of one-half of the value of the territory proposed to be excluded as shown by the last equalized assessment roll of the county or counties, further proceedings shall not be taken. If such protest is not made, the board of directors shall approve or disapprove the exclusion by ordinance. Any ordinance approving such exclusion shall set forth and describe the boundaries of the territory so excluded. If the board of directors disapproves the exclusion, a new proceeding to exclude

any of the same territory shall not be initiated under this section for a period of 12 months from the effective date of the ordinance.

When an ordinance approving exclusion of uninhabited territory becomes effective, the president and secretary of the board of directors shall file with the Secretary of State a certified copy of the ordinance. Upon receipt of the certified copy of the ordinance, the Secretary of State shall, within 10 days, issue his certificate reciting the passage of said ordinance and the exclusion of said area or areas from said agency. A copy of said certificate shall be transmitted to, and filed with, the county clerks of the counties in which the Antelope Valley-East Kern Water Agency is situated. From and after the date of such certificate, the area or areas named therein shall be deemed excluded from, and shall no longer form a part of, said Antelope Valley-East Kern Water Agency, but the taxable property within such excluded area or areas shall continue taxable by such Antelope Valley-East Kern Water Agency for the purpose of paying the bonded or other indebtedness of the Antelope Valley-East Kern Water Agency outstanding or contracted for at the time of such exclusion and until such bonded or other indebtedness shall have been satisfied, to the same extent that such property would be taxable for such purpose if such exclusion had not occurred.

Notwithstanding the eligibility of any territory for exclusion from the Antelope Valley-East Kern Water Agency pursuant to the provisions of this section, the procedure herein prescribed shall not be deemed exclusive and such territory may be excluded from such agency as a separate parcel, or as part of a larger parcel, of territory excluded under the provisions of Section 84 of this act.

(Stats.1959, c. 2146, p. 5184, § 85. Amended by Stats.1961, c. 1624, p. 3528, § 7; Stats.1967, c. 136, § 9.)

§ 98-86. Dissolution; procedure

Sec. 86. The Antelope Valley-East Kern Water Agency organized under the terms of this act may be disorganized or disincorporated in the following manner:

A petition shall be filed with the county clerk of the principal county in which such agency is located, signed by at least 25 percent of the voters of the agency praying for the disorganization and disincorporation of such agency and briefly stating the reasons therefor. Upon the filing of such petition the county clerk shall examine the same within 10 days and ascertain whether or not said petition is signed by the requisite number of voters. When the said county clerk has completed his examination of the petition he shall attach to the same his certificate properly dated, showing the result of such examination, and if from such examination he shall find that said petition is signed by the requisite number of voters residing within the boundaries of the Antelope Valley-East Kern Water Agency, or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be. If the same is found insufficient by him, supplemental petitions may be filed at the times and in the manner and for the same purpose as supplemental petitions to the original petition for the

incorporation of the agency. After an election for the disincorporation of the agency hereunder the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

If by the certificate of the county clerk such petition, or such petition as amended or supplemented, is shown to be sufficient, the county clerk shall present the same to the board of supervisors without delay. When such petition is presented by the county clerk as aforesaid, the board of supervisors shall give notice of an election to be held in said agency for the purpose of determining whether or not the same shall be disincorporated and dissolved; provided, however, that in the event the said agency shall have issued bonds, the board of supervisors shall not consider said petition or take any action hereunder until evidence shall be furnished showing said bonds to have been fully satisfied. Said notice of election shall be published in a newspaper published in said agency and determined by said board most likely to give notice to those interested in said hearing, at least once a week for three successive weeks, the last publication to be not more than four weeks nor less than one week prior to the date fixed for the election; said notice shall state that the question of disincorporating said corporation shall be submitted to the voters of said agency at the time appointed for such election, and voters shall be invited thereby to vote upon such proposition by placing upon their ballots the cross as provided by law after the words "For Disincorporation" or "Against Disincorporation." The board of supervisors shall cause a copy of said notice to be mailed by the clerk of said board to each of the directors of said Antelope Valley-East Kern Water Agency, within five days after the date of the first publication thereof, and no election shall be had until proof of such mailing is furnished by affidavit of the clerk of said board. Such election shall be held and conducted in the same manner as the election on the organization of said agency, as nearly as practicable. Within seven days after the date of said election, the board of supervisors shall proceed to canvass the vote cast thereat; if it be found by the canvass of said votes that less than a majority of the votes cast were in favor of disincorporation, said board of supervisors shall declare the petition for disincorporation denied. In case it shall appear from said canvass that a majority of all the votes cast were in favor of disincorporation, said board of supervisors shall make and cause to be entered upon the records of their proceedings an order that the petition for such disincorporation be granted, and declaring that the Antelope Valley-East Kern Water Agency be disincorporated; said order to take effect at the time hereinafter provided. Said board of supervisors shall in case said Antelope Valley-East Kern Water Agency is so disincorporated, forthwith cause its clerk, or other officer performing the duties of clerk, to make and transmit to the Secretary of State a certified copy of the notice of election hereinbefore provided for, and a statement of the number of voters voting for said disincorporation and the number of voters voting against said disincorporation. Twenty days from and after the holding of the election, in case a majority of said votes were cast in favor of said disincorporation, said Antelope Valley-East Kern Water Agency shall be forever disincorporated.

(Stats.1959, c. 2146, p. 5186, § 86.)

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§ 98-87. Debts of dissolved agency; payments; assets

Sec. 87. Upon the disincorporation of the agency in the manner hereinbefore provided for, the board of supervisors of the principal county shall forthwith, after ascertaining by said canvass that the disincorporation has been carried, determine the amount of the indebtedness of said agency, the amount of money in the treasury thereof and all indebtedness due or coming due the said agency, and the directors of said agency shall furnish the said board of supervisors with a statement showing said amount of indebtedness, the said amount of money in the treasury and all indebtedness due or coming due said agency, and said Antelope Valley-East Kern Water Agency shall before the expiration of 30 days turn over to the treasury of said county all moneys of said agency in its possession, and said county treasurer shall place said money in a special fund to be drawn upon as hereinafter provided for. Upon the disincorporation of said agency every public officer of said agency shall immediately turn over to the board of supervisors of the principal county in which said agency is situated, all public property of every nature and description in their possession, and including all public records and data of every nature and description. Nothing contained in this act shall be held to relieve said Antelope Valley-East Kern Water Agency, or the territory included within it, from any liability or any debt contracted by said agency prior to its disincorporation. All warrants for said indebtedness shall be drawn on order of said board of supervisors of the county, on the fund hereinabove provided for in the county treasury of the principal county. All moneys paid into the county treasury under the provisions of this act shall be placed in the special fund hereinbefore provided for. If at any time after the disincorporation of said agency it shall be found that there is not sufficient money in the treasury to the credit of the fund hereinbefore provided, with which to pay any indebtedness of said agency, said board of supervisors shall have the power, and it shall be their duty, to levy upon, and there shall be collected from, the property within the territory formerly included within said agency subject to taxation for the indebtedness, a tax or taxes sufficient in amount to pay the said indebtedness as the same shall become due; such tax or taxes, assessments and collections shall be made in the same manner and at the same time that other taxes of the county are levied and collected, and they shall be an additional tax within said territory for the payment of said debts. If after payment of all debts of said agency there shall remain any surplus in the hands of said county treasurer to the credit of the fund hereinbefore mentioned, the board of supervisors shall appropriate said surplus and declare a dividend pro rata to the taxpayers of said agency duly paid, and said taxpayers shall have the right to have the amount of such pro rata dividends refunded to them on demand, and the said board of supervisors shall refund such pro rata to said taxpayers and each thereof. The board of supervisors of the principal county in which said agency has been disincorporated, shall have the power and it shall be the duty of said board, if the board of directors of said agency shall fail or refuse to return to said board the statement of said amounts as hereinbefore in this act provided, to ascertain the indebtedness other than the bonded indebtedness, of said agency at the time of its disincorporation, the amount of money in its treasury and the amount due it at

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the said time; said board of supervisors shall make provision for the collection of the amounts due to said agency for the closing up of its affairs, and any act or acts necessary for said purposes not otherwise herein provided for, shall upon the order of said board of supervisors directing the same, be as fully done and performed and with as full effect as if the same had been performed by the proper officers of said agency before disincorporation, and said county shall succeed to and possess all the right of said agency in and to said indebtedness, and shall have the power to sue for or otherwise collect any such debts in the name of said county, and all costs and expenses of ascertaining the facts hereinbefore mentioned, and all other costs and expenses incurred by the board of supervisors in the execution of the orders and duties of said board of supervisors provided for in this act, shall be paid out of the special fund in this act provided for.

It is the intention that the Antelope Valley-East Kern Water Agency shall not be disincorporated until all bonded indebtedness shall have been fully paid, and by the word "indebtedness" as used herein is meant all indebtedness other than said bonded indebtedness unless the latter is expressly used.
(Stats.1959, c. 2146, p. 5187, § 87. Amended by Stats.1967, c. 136, § 10.)

§ 98-88. Actions to test validity of annexation or exclusion

Sec. 88. No informality in any proceeding or informality in the conduct of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the annexation of territory to, or exclusion of territory from, or the disincorporation of, the Antelope Valley-East Kern Water Agency. Any action or proceeding, wherein the validity of such annexation or exclusion or disincorporation is denied or questioned, shall be commenced within three months from the date of the certificate of annexation or of exclusion issued by the Secretary of State, or from the date of the order of the board of supervisors declaring the disincorporation, as the case may be; otherwise, said annexation or exclusion or disincorporation, and all proceedings in respect thereto, shall be held to be valid and in every respect legal and incontestable.

(Stats.1959, c. 2146, p. 5189, § 88.)

Cross References

Pleading, see Code of Civil Procedure § 420 et seq.

Library References

Declaratory Judgment ⇨ 204.
WESTLAW Topic No. 118A.
C.J.S. Declaratory Judgments § 88.

§ 98-89. Construction; definitions

Sec. 89. Nothing in this act shall be so construed as repealing or in any wise modifying the provisions of any other act relating to water or the supply of water to, or the acquisition thereof, by cities within this State. The term "city" as used in this act, shall mean and include any city or incorporated town.

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whether organized or functioning under a freeholders' charter or under the provisions of general laws. The word "agency" shall apply, unless otherwise expressed or used, to the Antelope Valley-East Kern Water Agency formed under the provisions of this act, and the word "board" and the words "board of directors" shall apply to the board of directors of such agency. The meaning of the term "voter," as used in this act, shall be ascertained by reference to Section 21 of the Elections Code.

(Stats.1959, c. 2146, p. 5189, § 89.)

§ 98-90. Nomination of candidates; registrar of voters to act as county clerk

Sec. 90. If there shall be a registrar of voters, other than the county clerk, in the principal county in which the Antelope Valley-East Kern Water Agency is hereby incorporated, or incorporated, under the provisions of this act, is situated, the duties required by this act to be performed by the county clerk respecting the nomination of candidates for offices of such water agency and the holding of elections in such agency, shall be performed by such registrar of voters.

(Stats.1959, c. 2146, p. 5190, § 90.)

§ 98-91. Continuance of proceedings

Sec. 91. Any all proceedings had or taken under the provisions of the act of which this act is amendatory, already commenced and pending at the time this act takes effect, may be continued under the provisions of the act of which this act is amendatory with the same force and effect as if this act had not been enacted.

(Stats.1959, c. 2146, p. 5190, § 91.)

§ 98-92. Lands in other counties; duties of board's secretary and auditor; apportionment of taxes; definitions

Sec. 92. The agency formed hereunder may contain lands situate in more than one county and this agency may annex lands situate in another county or counties. In either such case the lands need not be contiguous. The procedure relating to formation, annexation, disorganization, disincorporation, exclusion, fiscal matters and taxation shall conform as near as may be to such provisions with respect to agencies containing lands located in one county, subject to the following provisions:

(a) The secretary of the board of directors of the Antelope Valley-East Kern Water Agency containing land in more than one county shall perform all duties prescribed by law to be performed by county clerks or registrars of voters, as the case may be, in connection with agency elections and such duties of county clerks as are required by this act which relate to annexation, disorganization, disincorporation and exclusion, and, where necessary such secretary is authorized to procure from the proper county officials all requisite registration books and copies of indexes thereof; all papers required by this act to be filed with a

county clerk shall be filed with said secretary and the board of directors shall perform all duties prescribed by law to be performed by boards of supervisors in connection with agency elections and such duties as are required by this act which relate to annexation, disorganization, disincorporation and exclusion of territory.

(b) Immediately after equalization and not later than the fifteenth day of August of each year, it shall be the duty of the auditor of each county wherein such agency or any part thereof shall lie, to prepare and deliver to the secretary of the agency or such other officer thereof as may be designated by the board of directors therefor a certificate showing the assessed valuation of all property within the agency lying within the county. Thereafter, the board of directors shall make the certification and statement, and issue the directions, as required by Section 79 of this act. After collection of taxes by the proper county officers at the rate specified, such officers shall pay the moneys received therefrom to the agency.

Whenever an improvement district within the Antelope Valley-East Kern Water Agency is itself located in two or more counties, the method and procedure for the apportionment of agency taxes between counties shall apply to such improvement district.

(c) Whenever provision is made in this act for notice within a county, it shall be construed to require notice within each county in which agency lands are located.

(d) "Principal county" as used in this section means the county in which the greater portion of land of the Antelope Valley-East Kern Water Agency is located.

(Stats.1959, c. 2146, p. 5190, § 92.)

§ 98-93. Adjustment of boundaries; resolution of board

Sec. 93. The board of directors shall, by resolution, adjust the boundaries of any divisions pursuant to Chapter 8 (commencing with Section 22000) of Division 21 of the Elections Code.

(Stats.1959, c. 2146, p. 5191, § 93. Amended by Stats.1998, c. 435 (A.B.2543), § 24.)

§ 98-94. Public corporation or agency; annexation, inclusion or addition; identity

Sec. 94. The inclusion in, or annexation or addition to, the Antelope Valley-East Kern Water Agency, of the corporate area of any public corporation or public agency, shall not destroy the identity or legal existence or impair the powers of any such public corporation or public agency, notwithstanding the identity of purpose, or substantial identity of purpose, of the Antelope Valley-East Kern Water Agency.

(Stats.1959, c. 2146, p. 5191, § 94. Amended by Stats.1965, c. 610, p. 1947, § 1.)

§ 98-95. Levy and collection of taxes to meet operating expenses, repairs, etc.

Sec. 95. If, in the opinion of the board of directors of the Antelope Valley-East Kern Water Agency, the corporate area of which, as a unit, shall have been included in, or annexed to, a metropolitan water district, the revenues of the Antelope Valley-East Kern Water Agency will be inadequate for any cause to any the operating expenses of the Antelope Valley-East Kern Water Agency, to provide for repairs and depreciation of works owned or operated by it, and to meet all obligations of the Antelope Valley-East Kern Water Agency, then such board of directors, in the manner provided for the levy and collection of taxes for the Antelope Valley-East Kern Water Agency, must provide for the levy and collection of a tax sufficient to raise the amount of money determined by such board of directors to be necessary for the purpose of paying the operating expenses of the Antelope Valley-East Kern Water Agency, providing for repairs and depreciation of works owned or operated by it, and meeting all obligations of the Antelope Valley-East Kern Water Agency.

(Stats.1959, c. 2146, p. 5191, § 95.)

Cross References

Taxable and exempt property, see Revenue and Taxation Code § 201 et seq.

§ 98-96. Repeal; partial invalidity

Sec. 96. All acts and parts of acts in conflict herewith are hereby repealed. If any section, subsection, sentence, clause or phrase of this act or the application thereof to any person or circumstance is for any reason held invalid the validity of the remainder of the act or the application of such provision to other persons or circumstances shall not be affected thereby. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

(Stats.1959, c. 2146, p. 5192, § 96.)

Library References

Statutes 6-64(2).

WESTLAW Topic No. 361.

C.S. Statutes § 96 et seq.