

CHAPTER 79

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ACT

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An Act to create a flood control district to be called San Joaquin County Flood Control and Water Conservation District; to provide for the control and conservation of flood and storm waters and the protection of watercourses, watersheds, harbors, public highways, life and property from damage or destruction from such waters; to prevent the waste of water or the diminution of the water supply in, or the exportation of water from said district, and to import water into said district and to obtain, retain and reclaim drainage, storm, flood and other waters and to save and conserve all or any of such waters for beneficial use in said district; to authorize the incurring of indebtedness, the issuance and sale of bonds, and the levying and collection of taxes and assessments on property within said district and in the respective zones thereof; to provide for the government, management, and operation of said district and for the acquisition and construction of property and works to carry out the purposes of the district; to define the powers of said district and its officers. (Stats.1956, 1st Ex.Sess., c. 46, p. 387.)

Cross References

Procedure for letting contracts, see Public Contract Code § 21311.

§ 79-1. Short title

Section 1. This act shall be known and may be cited as the San Joaquin County Flood Control and Water Conservation District Act.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 387, § 1.)

Law Review and Journal Commentaries

Evolution of forms of water users' organizations in California. Albert T. Henley, 45 Cal. L.Rev. 665 (1957).

§ 79-2. Creation of district; boundaries

Sec. 2. A flood control and water conservation district is hereby created to be called the San Joaquin County Flood Control and Water Conservation

District. Said district shall consist of all the territory of the County of San Joaquin lying within the exterior boundaries of said county. As used in this act "district" means the San Joaquin County Flood Control and Water Conservation District.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 387, § 2. Amended by Stats.1961, c. 933, p. 2557, § 1.)

Library References

Levees and Flood Control §§ 5 to 7.
WESTLAW Topic No. 235.

C.J.S. Levees and Flood Control §§ 14 to 19,
27.

§ 79-3. Establishment of zones; designation; purpose; conduct of proceedings

Sec. 3. The board of supervisors of the district created by this act, by resolutions thereof adopted from time to time, may establish flood control zones, investigation zones, and water conservation zones within said district without reference to the boundaries of other zones, setting forth in such resolutions descriptions thereof by metes and bounds and entitling each of such zones by a zone number, and institute zone projects for the specific benefit of such zones. The board may, by resolution, amend the boundaries by annexing property to or by withdrawing property from said zones or may divide existing zones into two or more zones or may superimpose a new or amended zone on zones already in existence, setting forth in such resolutions descriptions of the amended, divided or superimposed zones by metes and bounds and entitling each of such zones by a zone number. Any territory in the district may be included within one or more flood control zones, investigation zones, or water conservation zones, or one or more of each types of zones.

As used in this act, "zone" means either a flood control zone, an investigation zone, or a water conservation zone.

At the time of establishing any zone, after January 1, 1978, the board shall designate the zone either a flood control zone, investigation zone, or a water conservation zone. The primary purpose of a water conservation zone shall be to effectuate the reclamation, storage, distribution, purchase, sale, use, conservation, and development of water. The primary purpose of a flood control zone shall be the prevention of floods and the control of flood and storm waters and the prevention of the inundation of the lands of the district by flood and storm waters. The primary purpose of an investigation zone shall be to carry out engineering, geologic, and other studies relating to the prevention of floods and the control of flood and storm waters and the prevention of the inundation of the lands of the district by flood and storm waters, or the reclamation, storage, distribution, purchase, sale, use, conservation, and development of water, including, but not limited to, studies relating to ground water and the use and management of combined surface water and ground water supplies.

Proceedings for the establishment of such zones may be conducted concurrently with and as a part of proceedings for the instituting of projects relating to such zones, which proceedings shall be instituted in the manner prescribed in Section 12 of this act.

No territory within any county water district, reclamation district, irrigation district, water conservation district, protection district, municipality, flood control district, or other district or political subdivision of the State now or hereafter established in, or partially within the limits of the district, for the purpose or purposes in whole or in part of reclamation, storage, distribution, purchase, sale, use, conservation, and development of water, shall be included within a water conservation zone without the express consent of the governing body of such entity.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 387, § 3. Amended by Stats.1961, c. 933, p. 2557, § 2; Stats.1977, c. 1218, p. 4098, § 1, eff. Oct. 1, 1977.)

Library References

Levees and Flood Control ⇨9.
WESTLAW Topic No. 235.
C.J.S. Levees and Flood Control § 24 et seq.

§ 79-4. Purpose of act

Sec. 4. The objects and purposes of this act are to provide for the control of the flood and storm waters of the district and the flood and storm waters of streams that have their source outside of the district, but which streams and the floodwaters thereof flow into the district, and to conserve the waters for beneficial and useful purposes by spreading, storing, retaining, and causing to percolate into the soil within the district, or without the district, the waters, or to save or conserve in any manner all or any of the waters and protect from flood or storm waters the watercourses, watersheds, harbors, public highways, life, and property in the district, and to prevent waste of water or diminution of the water supply in, or exportation of water from, the district, and to obtain, retain, and reclaim drainage, storm, flood, and other waters for beneficial use in the district.

The objects and purposes of this act also include the purchase and resale of water, the purchase and distribution of water, and the conservation and distribution or sale of water, regardless of whether the activities are taken in conjunction with flood control or flood protection and also include the construction of works for generating hydroelectric power, the operation and maintenance of the works, and the sale of the output of the hydroelectric powerplant.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 388, § 4. Amended by Stats.1961, c. 933, p. 2558, § 3; Stats.1981, c. 1159, p. 4627, § 3, eff. Oct. 2, 1981.)

Library References

Levees and Flood Control ⇨2.
WESTLAW Topic No. 235.
C.J.S. Levees and Flood Control § 3.

§ 79-5. Nature of district; powers

Sec. 5. The district is hereby declared to be a body corporate and politic and as such shall have, in addition to the other powers vested in it by this act, the following powers:

1. To have perpetual succession.
2. To sue and be sued in the name of the district.
3. To adopt a seal.
4. To acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and to hold, use, enjoy, sell, let, and dispose of, real and personal property of every kind, including lands, structures, buildings, rights-of-way, easement, and privileges, and to construct, maintain, alter, and operate any and all works or improvements, within or without the district, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to complete, extend, add to, alter, remove, repair, or otherwise improve any works, improvements, or property acquired by it as authorized by this act.
5. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or of any zone or zones affected; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside of the district, water for present and future use within the district; to commence, maintain, intervene in, defend, or compromise, in the name of the district, or otherwise, and to assume the costs and expenses of, any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend, and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare, rights in the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from the district; to prevent contamination, pollution, or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in the district, and to commence, maintain, and defend actions and proceedings to prevent any such interference with the waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that the district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interest of the district.
6. To control the flood and storm waters of the district and the flood and storm waters of streams that have their sources outside of the district, but which streams and the floodwaters thereof, flow into the district, and to conserve the waters for beneficial and useful purposes of the district by spreading, storing, retaining, and causing to percolate into the soil within or without the district, or to save or conserve in any manner all or any of the waters and protect from damage from flood or storm waters the watercourses, watersheds, harbors, public highways, life, and property in the district, and the watercourses outside of the district of streams flowing into the district, and to

prevent waste of water or diminution of the water supply in, or exportation of water from the district, and to obtain, retain, and reclaim drainage, storm, flood, and other waters for beneficial use in the district; provided, that nothing in this act shall authorize the carrying out of any plan of improvement, the purpose of which is, or the effect of which will be, to take water which flows in any watershed in the district and transport or sell that water for use anywhere outside of the district when the water level of any gravel beds within the district is below the normal level and that water could reasonably be used to replenish the water level of the gravel beds; provided further, that none of the provisions of this act shall preclude the exercise by any other political subdivision that may now or hereafter exist, in whole or in part, within the district from exercising its powers, although the powers may be of the same nature as the powers of the district. Any such other political subdivision which owns property or facilities of a type that may be owned by the district may, by written agreement with the district, provide for the use, or joint use, of the property or facilities or for the use, or joint use, of property or facilities in which the district has an interest.

7. To cooperate and to act in conjunction with the State of California or any of its engineers, officers, boards, commissions, departments, or agencies, or with the government of the United States or any of its engineers, officers, boards, commissions, departments, or agencies, or with any public district, or with any public or private corporation, or with any city, city and county, or county, in the construction of any works for the controlling of flood or storm waters of or flowing into the district or for the protection of life or property therein, or for the purpose of conserving any waters whatsoever for beneficial use within the district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any of those purposes.

8. To carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies, and inspections pertaining to water supply, water rights, control of floods, and use of water, both within and without the district, and, for those purposes, the district shall have the right of access through its authorized representatives to all properties within the district. The district, through its authorized representatives, may enter upon those lands and make examinations, surveys, and maps thereof.

9. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways, and other rights-of-way; to acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair, and improvement of those works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also, where necessary or convenient to and for those purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of the capital stock is necessary to secure a water

supply required by the district or any part thereof, upon the condition that, when holding the capital stock, the district shall be entitled to all the rights, powers, and privileges and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of the capital stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm, or individual, or any combination of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair, or operation of any rights, works, or other property of a kind which may be lawfully acquired or owned by the district; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch, or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water or right to store the water in any reservoir of the district, or to carry the water through any tunnels, canal, ditch, or conduit of the district; to enter into, and do any acts necessary or proper for the performance of, any agreement with any district of any kind, public or private corporation, association, firm, or individual, or any combination of them, for the transfer or delivery to any such district, corporation, association, firm, or individual of any water right or water pumped, stored, appropriated, or otherwise acquired or secured, for the use of the district, or for the purpose of exchanging the water or water right for other water, water right, or water supply in exchange for water, water right, or water supply to be delivered to the district by the other party pursuant to the agreement.

10. To incur indebtedness and to issue bonds in the manner herein provided.

11. To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner hereinafter provided.

12. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in the district or any of the officers thereof by this act.

13. To exercise the right of eminent domain within the district to take any property necessary to carry out any of the objects or purposes of this act. The district, in exercising this 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, cable, or poles of any public utility which is required to be moved to a new location. No right shall exist in the district to take, by proceedings in eminent domain, any property, including water rights appropriated to public use by any existing city and county or municipal utility district. Nothing in this act contained shall be deemed to authorize the district or any person to divert the waters of any river, creek, stream, irrigation system, canal, or ditch, or the waters thereof or therein, unless compensation therefor be first provided in the manner prescribed by law.

Nothing in this act contained shall be construed as in any way affecting the plenary power of any existing city and county or municipal utility district to provide for a water supply for the city and county or municipal utility district, or as affecting the absolute control of any properties of the city and county or municipal utility district necessary for that water supply and nothing herein contained shall be construed as vesting any power of control over those properties in the San Joaquin County Flood Control and Water Conservation District, or in any officer thereof, or in any person referred to in this act.

14. To make contracts with the County of San Joaquin, and to employ labor for the purpose of doing flood control work and for inspecting and passing upon the adequacy of drainage plans provided for each proposed new subdivision in the County of San Joaquin.

15. To purchase, or to contract for the purpose of purchasing, water from the United States or any of its agencies, from the state or any of its agencies, from any other public district, agency, or organization, from any private firm, corporation, entity, or organization, or from any person.

16. To have power to cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress previously or hereafter enacted permitting cooperation or contract for the purposes of contracting works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation, or maintenance of those works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made.

17. To sell or distribute, and to contract for sale or distribution, water to any person, firm, corporation, entity, or organization within the district, whether sold or distributed for consumption or for resale or redistribution; provided, that the district shall have no power to sell or distribute, or to contract for sale or distribution of, water for use on any lands within any county water district, reclamation district, irrigation district, water conservation district, protection district, municipality, flood control district, or other district or political subdivision of the state now or hereafter established, in whole or in part, within the limits of the district, which is empowered to deliver water to water users, without either contracting with that entity or without the express written permission of the governing body of that entity.

18. To establish tolls or charges for any water sold or distributed by it.

19. To levy assessments to pay the costs of acquiring and distributing any water in any water conservation zones which are benefited.

20. To construct works for generating hydroelectric power, and to operate and maintain the works, or contract for such operation or maintenance. The power generated may be used by the district for its own purposes, but shall not be offered for sale directly by the district to customers other than a public utility or public agency engaged in the distribution, use, or sale of electricity. Any such powers may be exercised jointly with member units or other public agencies authorized to exercise those powers. The power to acquire works and

facilities shall not include, and nothing in this act shall be construed to allow, the acquisition of property already employed in the generation of hydroelectric power for public utility purposes, except by mutual agreement between the district and the owner of that property. The authority to construct, maintain, and operate works pursuant to this subdivision shall apply only to works constructed and maintained after the effective date of the amendment of this section enacted during the 1981-82 Regular Session of the Legislature.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 388, § 5. Amended by Stats.1961, c. 933, p. 2559, § 4; Stats.1963, c. 2029, p. 4209, § 14; Stats.1975, c. 584, p. 1220, § 19; Stats.1981, c. 1159, p. 4628, § 4, eff. Oct. 2, 1981.)

Law Revision Commission Comment

1975 Amendment

The deleted portions of subdivision 13 of Section 5 [Water Code App. § 79-5] are superseded by provisions of the Eminent Domain Law. See Code Civ.Proc. §§ 1230.020 (uniform procedure), 1240.610 et seq. (more necessary public use), 1240.010 (declaration that a use is a public use is unnecessary), 1240.110 (right to take any property or interest or right in property), 1240.310 et seq. (taking for exchange), 1250.210 (identification of plaintiff). See also Code Civ.Proc. §§ 1240.040 and 1245.210 et seq. (resolution of necessity), 1235.170 ("property" defined). The word "condemnation" is deleted from subdivisions 4 and 9 to avoid any implication that the broad power of eminent domain under subdivision 13 is limited to the types of property enumerated in subdivisions 4 and 9. See Code Civ.Proc. §§ 1235.170, 1240.110. Also, the enumeration of specific types of property does not limit the right to acquire other types of property by purchase or other means. Code Civ.Proc. § 1240.130; cf. Code Civ.Proc. § 1230.030.

Historical and Statutory Notes

Operative effect of Stats.1963, c. 2029, p. 3369, see Historical and Statutory Notes under Business and Professions Code § 5312. Operative effect of 1975 amendment, see note under § 55-5.

Library References

Levees and Flood Control ⇐9
WESTLAW Topic No. 235.

C.J.S. Levees and Flood Control § 24 et seq.
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. 23, 82, 111.

§ 79-6. Board of supervisors; compensation of members; legislation

Sec. 6. The Board of Supervisors of San Joaquin County shall be and is hereby designated as, and empowered to act as, ex officio the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District. As used elsewhere in this act the terms "board" and "board of supervisors" mean the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District.

Each member of the board of supervisors of the district shall receive as compensation for his services twenty-four dollars (\$24) per month and his actual and necessary expenses in the performance of official duties under this

act, payable from the funds of said district in addition to his salary as county supervisor.

All ordinances, resolutions and other legislative acts for said district shall be adopted by said board of supervisors, and certified to, recorded and published, in the same manner, except as herein otherwise expressly provided, as are ordinances, resolutions or other legislative acts for the County of San Joaquin. (Added by Stats.1956, 1st Ex.Sess., c. 46, p. 393, § 6.)

Library References

Levees and Flood Control ⇨8, 9.
WESTLAW Topic No. 235.

C.J.S. Levees and Flood Control §§ 22, 23, 24
et seq.

§ 79-7. Appointment of commission; delegation of powers; compensation of members; tenure

Sec. 7. The board shall establish, by ordinance, a commission. The board may delegate any or all of its powers to the commission. The board may, by resolution, provide for compensation for services and payment of the actual necessary expenses incurred by members of the commission in the performance of official duties under this act, payable from the funds of the district. Members of the commission shall serve at the pleasure of the board.

When the board of supervisors has delegated any or all of its powers to the commission, the terms "board" and "board of supervisors" mean the commission. The commission may, by resolution, certified to by the chairperson of the commission, take action with reference to any and all matters which have been delegated to it by the Board of Supervisors of the County of San Joaquin. (Added by Stats.1956, 1st Ex.Sess., c. 46, p. 393, § 7. Amended by Stats.1975, c. 849, p. 1915, § 1; Stats.1989, c. 377, § 1.)

§ 79-8. Officers and employees; performance of duties; payment of expenses

Sec. 8. The District Attorney, County Surveyor, County Assessor, County Tax Collector, County Clerk, County Auditor, Purchasing Agent and County Treasurer of the County of San Joaquin, and their successors in office, and all their assistants, deputies, clerks and employees, and all other officers of said San Joaquin County, their assistants, deputies, clerks and employees, shall be ex officio officers assistants, deputies, clerks and employees, respectively, of the district, and shall respectively perform, unless otherwise provided by the board, the same various duties for the district as for said San Joaquin County, in order to carry out the provisions of this act.

All such officers, deputies, clerks and employees shall receive their actual necessary expenses in the performance of official duties under this act payable from the funds of the district.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 393, § 8.)

§ 79-9. Rules and regulations; appointment of additional officers and employees; civil service

Sec. 9. The board shall have power to make and enforce all needful rules and regulations for the administration and government of the district, and in addition to the officers and employees herein otherwise prescribed, the board may in its discretion appoint a chairman, a secretary and such other officers, agents and employees for the board or district as in its judgment may be deemed necessary, prescribe their duties and fix their compensation. Such officers, agents and employees shall be appointed under and pursuant to the civil service rules and regulations of the County of San Joaquin; provided, however, that the chairman and secretary of the board, and experts, consultants or technical or other advisers for particular purposes and laborers, employed for a temporary period, may be appointed by the board without reference to any classified civil service list.

The Civil Service Commission of the County of San Joaquin and the civil service department of said county shall be ex officio the civil service commission and ex officio the civil service department of the district and said commission and the members of said department shall perform all of the duties herein prescribed without additional compensation except that the district shall pay for any necessary additional expenses incurred by reason of the performance of said additional duties for the district.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 394, § 9.)

Library References

Officers and Public Employees §§ 11 to 11.7.
WESTLAW Topic No. 283.

C.J.S. Officers and Public Employees §§ 49 to 65, 92 to 98.

§ 79-10. Employment of engineers; duties; reports

Sec. 10. The board shall have jurisdiction and power by resolution to employ competent registered civil engineers to investigate and carefully devise a plan or plans for the accomplishment of any of the purposes of this act; and to obtain such other information in regard thereto as may be deemed necessary or useful for carrying out the purposes of this act; and such resolution may direct such engineer or engineers to make and file reports from time to time with the board, which shall show:

1. A general description of the work proposed to be done, together with general plans, profiles, cross-sections, and general specifications relating thereto, on each project or work of improvement.
2. A general description of the lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said work.
3. A map or maps which shall show the location and zones, as may be required, of each of said projects or improvements, and lands, rights-of-way, easements and property to be taken, acquired or injured in carrying out said work, and any other information in regard to the same that may be deemed necessary or useful.

4. An estimate of the cost of each project or work of improvement, including an estimate of the cost of lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said project or work of improvement, and also of all incidental expenses incurred or likely to be incurred in connection therewith, including legal, clerical, engineering, superintendence, inspection, printing and advertising, and stating the total amount of bonds, if any, necessary to be issued to pay for the same.

Such engineer or engineers shall from time to time and as directed by the board file with the board supplementary, amendatory and additional reports and recommendations, as necessity and convenience may require.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 394, § 10. Amended by Stats.1961, c. 933, p. 2564, § 5.)

§ 79-11. Determination of projects

Sec. 11. The board shall determine which projects or works of improvement shall be carried out and shall determine, as to each project or work of improvement, that it is either:

1. For the common benefit of the district as a whole; or
2. For the benefit of two or more zones hereinafter referred to as participating zones; or
3. For the benefit of a single zone.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 395, § 11.)

§ 79-12. Investigation zone; creation; institution of projects; procedure

Sec. 12. In the event the board, in its judgment, determines that the creation of an investigation zone is necessary or desirable because of the magnitude, scope, cost, or duration of an engineering, geologic, or other study, the board may create, subject to all of the other provisions of this act, an investigation zone. With respect to an investigation zone, the term "project" as used in this act shall include an engineering, geologic, or other study. At the time of establishing an investigation zone, the board may provide that the zone shall exist only for a specific number of years.

The board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to such zone or participating zones. For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of same to be borne by the particular zone and in the case of participating zones the proportionate cost to be borne by each of the participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of said project, or in the case of an investigation zone, the area subject to study. In the case of an investigation zone, the engineering estimate of cost shall be an estimate of the cost of the contemplated study. Notice of

such hearing shall be given for a period of not less than twenty (20) days. If there is a newspaper of general circulation published in the territory proposed to be formed into a zone, notice shall be given by publication once a week for two (2) consecutive weeks prior to the hearing, the last publication of which must be at least seven (7) days before said hearing. If there is no such newspaper, notice shall be given by posting notice of the hearing for a period of fourteen (14) days prior to said hearing in five (5) public places as their said territory designated by the board. Said notice shall designate a public place in any such zone where a copy of the map of the project may be seen by any interested person.

At the time and place fixed for the hearing, or at any time to which said hearing may be continued, the board shall consider all written and oral objections to the proposed project and to the inclusion or exclusion of property within the proposed zone or participating zone. Upon the conclusion of the hearing the board may abandon the proposed project or proceed with the same, unless prior to the conclusion of said hearing a written protest against the proposed project signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, representing one-half or more of the assessed valuation of the real property within such zone or within any of the participating zones for which said project was initiated, be filed with the board, in which event further proceedings relating to such project must be suspended for not less than six months following the date of the conclusion of said hearing, or said proceeding may be abandoned in the discretion of the board, and if the board proceeds with a proposed project it shall exclude from the zone or participating zones all property which will not be benefited by the proposed project.

In all matters in this section referred to, the last equalized assessment roll of the County of San Joaquin next preceding the filing of the protest shall be prima facie evidence as to the ownership of real property, the names and number of the persons who are the holders of title or evidence of title, or assessable rights therein, and as to the assessed valuation of real property within the zone or within any of the participating zones for which the project was initiated.

Executors, administrators, special administrators, and guardians may sign the protest provided for in this act on behalf of the estate represented by them. If the property is assessed in the name of such representatives, that fact shall establish the right of such representatives to sign the protest; if assessed in the name of the decedent, minor or incompetent person, certified copies of the letters or such other evidence as may be satisfactory to the board must be produced.

Where real property appears to be owned in common or jointly or by a partnership, or where letters of representatives of decedents, minors or guardians are joint, only one of the owners or representatives or partners may sign the protest for all joint owners or representatives or partners; provided, the party claiming the right to protest for all produces the written consent of his co-owners or representatives or partners so to do, duly acknowledged by the

consenting co-owners or representatives or partners in the manner that deeds of real property are required to be acknowledged to entitle such deeds to be recorded in the recorder's office of the county.

Where real property is assessed in the name of a trustee or trustees, such trustee or trustees shall be deemed to be the person entitled to sign the protest, and if assessed in the name of more than one trustee the right to sign the protest shall be determined in like manner as above provided with respect to co-owners.

The protest of any public or quasi-public corporation, private corporation or unincorporated association, may be signed by any person authorized by the board of directors or trustees or other managing body thereof, which authorization shall be in writing; and a proxy executed by an officer or officers thereof, attested by its seal and duly acknowledged, shall constitute sufficient evidence of such authority, and shall be filed with the board.

The owner of any real property or interest therein, appearing upon the assessment roll, which has been assessed in the wrong name or to unknown owners, or which has passed from the owner appearing as such on the last equalized assessment roll, since the same was made, shall be entitled to sign the protest represented thereby, either by the production of a proxy from such former owner, or by furnishing evidence of his ownership by a conveyance duly acknowledged showing the title to be vested in the person claiming the right to sign the protest, accompanied by a certificate of a competent searcher of titles, certifying that a search of the official records of the county, since the date of the conveyance, discloses no conveyance or transfer out from the grantee or transferee named in the conveyance.

Where the real property has been contracted to be sold, the vendee shall be entitled to sign the protest, unless such real property is assessed in the name of the vendor, in which event the vendor shall be entitled to so do.

The board shall likewise be entitled to inquire and take evidence for the purpose of identifying any person claiming the the right to sign the protest as being the person shown on the assessment roll or otherwise as entitled thereto. And, unless satisfactory evidence is furnished, the right to sign said protest may be denied.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 395, § 12. Amended by Stats.1977, c. 1218, p. 4099, § 2, eff. Oct. 1, 1977.)

§ 79-13. General levy of taxes or assessments

Sec. 13. The board shall have power, in any year:

1. To levy ad valorem taxes or assessments upon all property in the district to pay the general administrative costs and expenses of the district, and to carry out any of the objects or purposes of this act of common benefit to the district; provided, however, that the ad valorem tax or assessment shall not exceed two cents (\$0.02) on each one hundred dollars (\$100) of assessed valuation or, if the district contemplates or undertakes water conservation or distribution, the ad

valorem tax or assessment shall not exceed four cents (\$0.04) on each one hundred dollars (\$100) of assessed valuation.

2. To levy taxes or assessments, in addition to the amount levied pursuant to subdivision 1, in each or any of the zones and participating zones to pay the cost and expenses of carrying out, constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works or improvements established, or to be established, within or on behalf of the respective zones, or of undertaking or continuing a study, according to the benefits derived or to be derived by the respective zones, by any of the following methods:

(a) By a levy or assessment upon all property within a zone or participating zone, including land, improvements thereon, and personal property.

(b) By a levy or assessment upon all real property within a zone or participating zones, including both land and improvements thereon. It is declared that, for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

(c) By a levy or assessment upon all land, exclusive of improvements and personal property. It is declared that, for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

3. To levy taxes or assessments by any method authorized by subdivision 2 of this section in each or any of the zones, according to the special benefits derived or to be derived by the specific properties therein, to pay the cost and expenses of carrying out any of the objects or purposes of this act of special benefit to the zone or zones, including the constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement established, or to be established, within or on behalf of the respective zone or zones, or of undertaking or continuing a study.

4. In the event of project cooperation with any of the governmental bodies as authorized by subdivision 7 of Section 5 of this act, including projects for water conservation and distribution, which requires the making of a contract with any of those governmental bodies for the purposes set forth in subdivision 7, by the terms of which work is to be performed by the governmental body in any specified zone or participating zones for the particular benefit thereof, and by the proposed contract the district is to pay to the governmental body, a sum of money in consideration or subvention for the performance of the work by the governmental body, the board may, after proceedings in the manner prescribed in Section 11 of this act, levy and collect a special tax or assessment upon the property in the zone or participating zones, whereby to raise funds to enable the district to make the payment, in addition to other taxes or assessments herein otherwise provided for.

The taxes or assessments shall be levied and collected together with, and not separately from, taxes for county purposes, and the revenues derived from the district taxes or assessments shall be paid into the county treasury to the credit of the district, or the respective zones thereof, and the board shall have the power to control and order the expenditure thereof for those purposes; provided, however, that no revenues, or portions thereof, derived in any zone from the

taxes or assessments levied under subdivision 2 or 3 of this section shall be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside of the zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, the zones shall become, and shall be referred to as, participating zones.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 397, § 13. Amended by Stats.1961, c. 933, p. 2564, § 6; Stats.1977, c. 1218, p. 4101, § 3, eff. Oct. 1, 1977; Stats.1981, c. 1159, p. 4628, § 5, eff. Oct. 2, 1981.)

Library References

Levees and Flood Control ⇨21 to 29.

WESTLAW Topic No. 235.

C.J.S. Levees and Flood Control §§ 28 to 39.

§ 79-13.5. Investigation zone; alternative method of funding, procedure; method of assessment; amount to be raised

Sec. 13.5. With respect to an investigation zone, the board may, in its discretion, adopt an alternative method of funding in accordance with this section, and, if the election is made, it shall be made at the time of determining to proceed with an investigation zone project, following the hearing required by Section 12. The alternative method of funding permitted by this section shall be as follows:

1. At the time of establishing the investigation zone, the board shall determine the total number of acres within the zone, the number of acres which are within any irrigation district or water conservation district and within the zone, and the number of acres not within an irrigation district or a water conservation district but within the investigation zone and shall, by resolution, declare the acreages and declare that the zone shall be funded in the manner provided in this section. If territory is within more than one irrigation district and water conservation district, then, for the purpose of this section, the territory in two districts shall be deemed to be within the district in which it was last included.

2. Immediately following the adoption of a resolution pursuant to subdivision 1 of this section, the district shall send written notice to each irrigation district and water conservation district located, in whole or in part, within the investigation zone. Within 90 days of the notice mentioned in the preceding sentence, the governing board shall advise the board of its choice among the following methods of levy within the portion of the investigation zone located within the respective irrigation district or water conservation district governed by the governing board:

- (a) The method specified in paragraph (a) of subdivision 2 of Section 13.
- (b) The method specified in paragraph (b) of subdivision 2 of Section 13.
- (c) The method specified in paragraph (c) of subdivision 2 of Section 13.
- (d) By direct semiannual payment from the funds of the irrigation district or water conservation district rather than by a levy by the district; the semiannual

payments shall be made on each occasion on or before the semiannual delinquency date for county taxes.

3. During the 90-day period mentioned in subdivision 2 of this section, the board shall determine the method of assessment to be used in any portion of the investigation zone not within an irrigation district or water conservation district.

4. If the governing board of an irrigation district or water conservation district does not, during the 90-day period mentioned in subdivision 2 of this section, specify the method of levy or charge to be used within its area, then, as to that area, the method specified in paragraph (c) of subdivision 2 of Section 13 shall be applied in that area.

5. If the board has adopted the method of funding established by this section, then annually the board shall determine the amount to be raised for the entire investigation zone and shall annually allocate the amount to be raised on a per acre basis between each irrigation district, water conservation district, and area outside of any such district, but within the investigation zone, and shall then cause the amounts so allocated on an acreage basis to be levied or collected in the manner previously elected by the respective governing boards.

6. No irrigation district or water conservation district shall be permitted to elect the method set forth in paragraph (d) of subdivision 2 of this section, unless the district first makes a showing satisfactory to the board that the district has the ability to make the estimated semiannual payments required during the duration of the project being undertaken by the investigation zone.

(Added by Stats.1977, c. 1218, p. 4103, § 4, eff. Oct. 1, 1977. Amended by Stats.1981, c. 1159, p. 4634, § 6, eff. Oct. 2, 1981.)

§ 79-14. Incurring bonded indebtedness; resolution of board; special bond election; procedure; interest rate; regularity of proceedings

Sec. 14. (1) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work or improvement in any zone or zones, the board may, by resolution, determine and declare the respective amounts of bonds necessary to be issued in each zone in order to raise the amount of money necessary for each work or improvement and the denomination and the maximum rate of interest of said bonds. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the Office of the Recorder of San Joaquin County within five days after its issuance. From and after said filing of said copy of said resolution the board shall be deemed vested with the authority to proceed with the bond election.

(2) After the filing for record of the resolution specified in subdivision (1) of this section, the board may call a special bond election in said zone or participating zones at which shall be submitted to the qualified electors of said zone or participating zones the question whether or not bonds shall be issued in the amount or amounts determined in said resolution and for the purpose or purposes therein stated. Said bonds and the interest thereon shall be paid from revenue derived from annual taxes or assessments levied as provided in this act.

(3) Said board shall call such special bond election by ordinance and not otherwise and submit to the qualified electors of said zone or participating zones, the proposition of incurring a bonded debt in said zone or participating zones in the amount and for the purposes stated in said resolution and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief, general description of such objects and purposes, and refer to the recorded copy of such resolution adopted by said board, and on file for particulars; and said ordinance shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on said indebtedness, and shall fix the date on which such special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on such indebtedness shall not exceed five percent (5%) per annum. For the purposes of said election, said board shall in said ordinance establish special bond election precincts within the boundaries of each zone and participating zone and may form election precincts by consolidating the precincts established for general elections in said district to a number not exceeding six general precincts for each such special bond election precinct, and shall designate a polling place and appoint one inspector, one judge and one clerk for each of such special bond election precincts.

In all particulars not recited in said ordinance, such special bond election shall be held as nearly as practicable in conformity with the general election laws of the State.

Said board shall cause a map or maps to be prepared covering a general description of the work to be done, which said map shall show the location of the proposed works and improvements and shall cause the said map to be posted in a prominent place in the county courthouse for public inspection for at least thirty (30) days before the date fixed for such election.

Said ordinance calling for such special bond election shall, prior to the date set for such election, be published in a newspaper of general circulation circulated in each zone and participating zone affected for five consecutive times if published in a daily newspaper of general circulation, or two times if published in a weekly newspaper of general circulation. The last publication of such ordinance must be at least fourteen (14) days before said election, and if there be no such newspaper, then such ordinance shall be posted in five public places designated by the board, in each zone and participating zone for at least thirty (30) days before the date fixed for such election. No other notice of such election need be given nor need polling place cards be issued.

Any defect or irregularity in the proceedings prior to the calling of such special bond election shall not affect the validity of the bonds authorized by said election. Where a project affects a single zone only, if at such election two-thirds ($\frac{2}{3}$) of the votes cast in said zone on the proposition of incurring a bonded indebtedness are in favor thereof, then bonds for such zone for the amount stated in such proceedings shall be issued and sold as in this act provided. Where the incurring of bonded indebtedness by participating zones is to be

determined at such election, no bonds for any of such participating zones shall be issued or sold unless two-thirds ($\frac{2}{3}$) of the votes cast on the proposition in each such participating zone are in favor of incurring the bonded indebtedness to be undertaken by such zone.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 398, § 14.)

Library References

Levees and Flood Control \Leftrightarrow 34.
WESTLAW Topic No. 235.
C.J.S. Levees and Flood Control § 40.

§ 79-15. Form of bonds; maturity; denomination; interest; execution of bonds and coupons

Sec. 15. The board shall, subject to the provisions of this act, prescribe by resolution the form of said bonds, which must include a designation of the zone or participating zone affected, and of the interest coupons attached thereto. Said bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date, and at a place to be fixed by said board, and designated in such bonds, together with the interest on all sums unpaid on such date until the whole of said indebtedness shall have been paid.

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. The board may fix a date, not more than two years from the date of issuance, for the earliest maturity of each issue or series of bonds. Beginning with the date of the earliest maturity of each issue or series, not less than one-fortieth of the indebtedness of such issue or series shall be paid every year. The final maturity date shall not exceed 40 years from the time of incurring the indebtedness evidenced by each issue or series.

The bonds shall be issued in such denomination as the board may determine, except that no bonds shall be of a less denomination than one hundred dollars (\$100), nor of a greater denomination than one thousand dollars (\$1,000), and shall be payable on the days and at the place fixed in said bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of five per centum (5%) per annum, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the auditor of said district, and the seal of said district shall be affixed thereto by the clerk of the board. Either or both such signatures may be printed, engraved or lithographed. The interest coupons of said bonds shall be numbered consecutively and signed by the said auditor by his printed, engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such bonds and coupons, and signatures or countersignatures shall nevertheless be valid and sufficient for all

purposes the same as if such officer had remained in office until the delivery of the bonds.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 400, § 15.)

§ 79-16. Issuance and sale of bonds; deposit of funds; payments from funds

Sec. 16. The board may issue and sell the bonds of any such zones authorized at not less than par value. Before selling the bonds, or any part thereof, the board shall give notice not less than 10 days prior to the date of sale by publication in a newspaper of general circulation circulating in the district inviting sealed bids in such manner as the board shall 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 the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale. The proceeds of the sale of such bonds shall be placed in the Treasury of the County of San Joaquin to the credit of said district and the respective participating zones thereof, for the uses and purposes of the zone or zones voting said bonds; and the proper record of such transactions shall be placed upon the books of said county treasurer, and said respective zone funds shall be applied exclusively to the purposes and objects mentioned in the ordinance calling for such special bond election as aforesaid, subject to the provisions in this act contained. Payments from said zone funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon the funds of the County of San Joaquin.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 401, § 16.)

§ 79-17. Source of revenue for payment of bonds; liability of one zone for bonded indebtedness of another; limitations on use of funds

Sec. 17. Any bonds issued under the provisions of this act, and the interest thereon, shall be paid by revenue derived from an annual tax or assessment levied as provided in clause (a) or (b) of subdivision 2 of Section 13 of this act. No zone nor the property therein shall be liable for the bonded indebtedness of any other zone, nor shall any moneys derived from taxation or assessments in any of the several zones be used in payment of principal or interest or otherwise of the bonded indebtedness chargeable to any other zone.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 401, § 17.)

§ 79-18. Levy and collection of tax to pay interest and principal; deposit of funds; manner of payment

Sec. 18. The board shall levy a tax or assessment each year sufficient to pay the interest and such portion of the principal of said bonds as is due or to become due before the time for making the next general tax levy. Such taxes or assessments shall be levied and collected in the respective zones of issuance together with and not separately from taxes for county purposes, and when

collected shall be paid into the County Treasury of said San Joaquin County to the credit of the zone of issuance, and be used for the payment of the principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the County Treasurer of said San Joaquin County in the manner provided by law for the payment of principal and interest on bonds of said county.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 401, § 18.)

§ 79-19. Manner of levying and collecting taxes; applicability of general law; liability of officers; exemptions from taxation

Sec. 19. The provisions of law of this State, prescribing the time and manner of levying, assessing, equalizing and collecting county property taxes, including the sale of property for delinquency, and the redemption from such sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act. All property exempt from taxation for county purposes under the provisions of the Revenue and Taxation Code of the State of California is exempt from taxation for the purposes of this act. Property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to this state, or to any county, city and county, or municipal corporation within this State shall be exempt from assessment, except such lands and the improvements thereon located outside of the county, city and county or municipal corporation owning the same as were subject to taxation at the time of the acquisition of the same by said county, city and county, or municipal corporation; provided, that no improvements of any character whatever constructed by any county, city and county or municipal corporation shall be subject to assessment.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 402, § 19.)

Library References

Levees and Flood Control ⇨21 to 29.

WESTLAW Topic No. 235.

C.J.S. Levees and Flood Control §§ 28 to 39.

§ 79-20. Limitations on taxation

Sec. 20. The total amount of taxes and assessments levied on property within any zone or zones shall not exceed twenty cents (\$0.20) on each one hundred dollars (\$100) of assessed valuation for flood control purposes and twenty cents (\$0.20) on each one hundred dollars (\$100) of assessed valuation for water conservation purposes, exclusive of the amounts necessary for interest and redemption of any bonds voted within such zone or zones. Investigation zones shall be funded by taxes and assessments levied for water conservation purposes.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 402, § 20. Amended by Stats.1961, c. 933, p. 2566, § 7; Stats.1977, c. 1218, p. 4104, § 5, eff. Oct. 1, 1977.)

§ 79-21. Validity of creation of district for purposes of assessment and taxation; effectiveness of creation of zone; procedure for assessment and equalization for fiscal year 1956-1957

Sec. 21. Notwithstanding Title 5, Division 2, Part 1, Chapter 8, of the Government Code,¹ the San Joaquin County Flood Control and Water Conservation District is validly created for the purposes of assessment and taxation. The creation of any zone in the district shall not be effective for purposes of assessment or taxation for the Fiscal Year 1956-57 and shall not be effective for such purposes for any fiscal year thereafter unless the statement and map or plat required by Title 5, Division 2, Part 1, Chapter 8, of the Government Code are filed with the county assessor and the State Board of Equalization on or before the first of February of the year in which the assessments or taxes are to be levied. Until such time as the creation of any zone shall be effective for purposes of assessment or taxation, any tax or assessment levied by the board shall be levied at a uniform rate on all property in the district.

For the Fiscal Year 1956-57, but for no other fiscal year, notwithstanding Section 19 of this act, the assessment and equalization of property for the purpose of district taxation shall be effective as provided in this section.

Assessments of this district for the Fiscal Year 1956-57 are liens on the property the same as if they were county taxes, except that the district assessment liens attach as of noon on the day after this act becomes effective.

It is presumed that the assessments of property made by the county assessor and by the State Board of Equalization for county taxation purposes for the Fiscal Year 1956-57 are the correct assessments for purposes of assessment by the district and the rolls prepared by the county assessor and the State Board of Equalization shall be used for purposes of levying and collecting the assessments for the district. If the ownership or taxable situs or value of any property changes between noon on the first Monday in March, 1956, and the date on which attaches the lien for assessments of the district for the Fiscal Year 1956-57, then, on petition of the taxpayer affected to the assessing authority, suitable entry shall be made on the assessment roll, in the manner prescribed by the State Board of Equalization, to indicate such change in the ownership or taxability or value of the property for purposes of assessment by the district.

In equalizing the assessments made by the county assessor, the Board of Supervisors of San Joaquin County, sitting as the county board of equalization, in addition to its regular equalization duties shall also, in the same manner and under the same rules, equalize the valuation of property for purposes of assessment by the district in accordance with the requirements of this section and any such changes made by the county board of equalization in the assessment roll shall be entered in the manner prescribed by the State Board of Equalization.

If, for purposes of assessments by the district, a change in the assessment for county taxation purposes is not sought under this section before the end of the period during which such assessment may be equalized, or corrected on a

petition for reassessment, such assessment, if valid for county taxation purposes, is conclusively presumed to be the correct assessment for assessment purposes of the district.

The board may prescribe by ordinance any necessary procedure, in accordance with the policy of this act, for the purpose of assessing, equalizing, levying, and collecting taxes or assessments for the district for the Fiscal Year 1956-57. Except as provided in this section, Section 19 of this act is applicable to the assessment and equalization of property for the purpose of district assessments for the Fiscal Year 1956-57.

Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code does not apply to the San Joaquin County Flood Control and Water Conservation District with respect to any tax or assessment levied by the district for the Fiscal Year 1956-57.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 402, § 21.)

¹ Government Code § 54900 et seq.

§ 79-22. Applicability of District Investigation Law of 1933

Sec. 22. A zone formed or proposed to be formed under this act, or the acquisition of any property or the construction of any improvement thereby, shall not be subject to any of the provisions of the District Investigation Law of 1933.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 404, § 22.)

§ 79-23. Bonds as legal investments and security for performance of act; repeal of conflicting provisions

Sec. 23. The bonds of the district issued for any zone thereof pursuant to this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts or municipalities in the State of California, such money or funds may be invested in the said bonds of said district issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, school districts or municipalities, may by any law now or hereafter enacted be used as security for the performance of any act, such bonds of said district may be so used.

This section of this act is intended to be and shall be considered the latest enactment with respect to the matters herein contained and any and all acts or parts of acts in conflict with the provisions hereof are hereby repealed.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 404, § 23.)

§ 79-24. Exemption of bonds from taxation; district as reclamation district and irrigation district

Sec. 24. All bonds issued by said district under the provisions of this act shall be free and exempt from all taxation within the State of California. It is

hereby declared that the district organized by this act is a reclamation district and an irrigation district within the meaning of Section 1¾ of Article XIII and Section 13 of Article XI of the Constitution of this State.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 404, § 24.)

Library References

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

§ 79-25. Repealed by Stats.1984, c. 1128, § 140

Historical and Statutory Notes

Section 79-25, added by Stats.1956, 1st Ex. Sess., c. 46, § 25, related to the procedure for awarding contracts. See Public Contract Code § 21311.

§ 79-26. Conformity of improvement with report, plans, specifications and map

Sec. 26. Any improvement for which bonds are voted under the provisions of this act, shall be made in conformity with the report, plans, specifications and map theretofore adopted, as above specified, unless the doing of any of such work described in said report, shall be prohibited by law, or be rendered contrary to the best interests of the district by some change of conditions in relation thereto, subsequent to the date of filing the report, plans, specifications and map theretofore adopted, in which event the board of supervisors may order necessary changes made in such proposed work or improvements and may cause any plans and specifications to be made and adopted therefor. (Added by Stats.1956, 1st Ex.Sess., c. 46, p. 405, § 26.)

§ 79-27. Issuance of additional bonds

Sec. 27. Whenever bonds have been authorized by any zone or participating zone of said district and said bonds have been issued as in this act authorized, and the board shall by resolution determine that additional bonds should be issued for carrying out the work of flood control, or for any of the purposes of this act, the board may again proceed as in this act provided, and submit to the qualified voters of said zone or participating zone, the question of issuing additional bonds in the same manner and with like procedure as hereinbefore provided, and all the above provisions of this act for the issuing and sale of such bonds, and for the expenditure of the proceeds thereof, shall be deemed to apply to such issue of additional bonds.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 405, § 27.)

§ 79-28. Failure to adopt proposition for issuing bonds; limitation on subsequent elections

Sec. 28. Should a proposition for issuing bonds for any zone or participating zones submitted at any election under this act fail to receive the requisite number of votes of the qualified electors voting at such election to incur the

indebtedness for the purpose specified, the board shall not for fix months after such election call or order another election in such zone or participating zone for incurring indebtedness and issuing bonds under the terms of this act for the same objects and purposes.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 406, § 28.)

§ 79-29. Exchange of refunding bonds for outstanding bonds

Sec. 29. The board may, with the consent of any holder or holders of outstanding bonds of the district, exchange refunding bonds bearing a lower rate of interest for such outstanding bonds.

Whenever any holder of outstanding bond or bonds shall have consented to such exchange, the board may, by resolution entered in its minutes, order the refunding of such bonds. The resolution shall designate the numbers, denominations, dates of maturity and aggregate principal amounts of the bonds so to be refunded and shall provide for the issuance of refunding bonds in exchange therefor, the form, numbers, denominations, dates of maturity and aggregate principal amounts of which shall be the same as the bonds so to be refunded. The resolution shall also fix the rate of interest said refunding bonds shall bear, which rate shall be less than the rate provided in the bonds to be refunded. The resolution shall also fix the form of the interest coupons attached to said refunding bonds, which shall be the same as the bonds so to be refunded, excepting that the rate and amounts of interest shall be less as hereinabove provided.

The refunding bonds shall be signed by the chairman of the board or such other member of the board as said board may by resolution designate, and shall be countersigned by the treasurer of the district, and the seal of said district shall be affixed thereto. The interest coupons shall be numbered consecutively and signed by the treasurer of said district by his engraved or lithographed signature. In case any officer whose signature or countersignature appears on said bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery of the bonds.

Each refunding bond may be exchanged for its corresponding outstanding bond as the board by agreement with the holder of such outstanding bond may determine, except that in effecting such exchange, any and all matured coupons on said refunding bonds shall be detached and canceled and the principal and accrued interest of both issues shall be accepted at par value and the district shall pay said holder in cash out of moneys in the bond interest fund of the district an amount equal to the difference between the interest on the outstanding bond and on the refunding bond accrued to the date of such exchange.

When any refunding bonds shall have been exchanged, taxes shall be levied and collected to pay the principal and interest thereof as provided by Section 18, all the provisions of which section shall apply to said refunding bonds to the same extent as to original issues.

The refunding bonds shall also be legal investments for fiduciaries and others as provided in Section 23.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 406, § 29.)

§ 79-30. Repeal or amendment of act

Sec. 30. The repeal or amendment of this act shall not in any way affect or release any of the property in said district or any zone thereof from the obligations of any outstanding bonds or indebtedness until all such bonds and outstanding indebtedness have been fully paid and discharged.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 407, § 30.)

§ 79-31. Withdrawal from district; election; certification of result; liability for debts

Sec. 31. Notwithstanding any provisions of this act to the contrary, the withdrawal of all the area lying within the exterior boundaries of any chartered or incorporated city from the district may be effected by the vote of a majority of the qualified electors of said city voting at any regular or special election on the proposition to withdraw the area lying within such city from the district. Said election shall in all particulars be held as provided by law for holding a municipal election in said city and the cost thereof shall be a city charge. The city council shall cause the results of the election to be certified to the board of supervisors of the district and if a majority of the votes cast on the proposition to withdraw such area from the district are in favor thereof, thereupon the area lying within the exterior boundaries of such city shall not longer be a part of the district; provided, however, that the withdrawal of the area lying within the exterior boundaries of such city from the district shall not release the area so withdrawn from debts and obligations for or upon which it was liable or chargeable at the time such withdrawal was made.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 407, § 31.)

Library References

Levees and Flood Control ⅈ5, 6.
WESTLAW Topic No. 235.

C.J.S. Levees and Flood Control §§ 14 to 19,
27.

§ 79-32. Grant of right of way over public lands; transmission of plat of selected lands; approval of selections; issuance of permit

Sec. 32. There is hereby granted to the district the right of way for the location, construction and maintenance of flood control channels, ditches, waterways, conduits, canals, storm dikes, embankments, and protective works in, over and across public lands of the State of California, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of such works and adjuncts or for the protection thereof. Whenever any selection of a right of way for such works or adjuncts thereto is made by the district the board thereof must transmit to the State Lands Commission, the Controller of the State and the recorder of the county in which the selected lands are situated, a plat of the lands so selected, giving

the extent thereof and the uses for which the same is claimed or desired, duly verified to be correct. If the State Lands Commission shall approve the selections so made it shall endorse its approval upon the plat and issue to the district a permit to use such right of way and lands.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 407, § 32.)

§ 79-33. Repealed by Stats.1975, c. 585, p. 1243, § 23

Law Revision Commission Comment

1975 Repeal

Section 33 [Water C.App. § 79-33] is superseded by Section 1240.330 of the Code of Civil Procedure and Section 861 of the Public Utilities Code.

Historical and Statutory Notes

Section 79-33, added by Stats.1956, 1st Ex. Sess., c. 46, § 33, related to the power to acquire rights of way and property necessary to comply with condemnation judgments or agree-

ments requiring relocation of streets, roads or highways and determination of controversies.

Operative effect of 1975 repealer, see note under § 40-39.

§ 79-34. Claims against district; law governing

Sec. 34. Claims against the district whether arising out of contract, tort, or the taking or damaging of property without compensation shall be 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.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 408, § 34. Amended by Stats.1970, c. 104, p. 325, § 8, operative Jan. 1, 1971.)

Library References

Levees and Flood Control ⇐31, 32.

WESTLAW Topic No. 235.

C.J.S. Levees and Flood Control § 40.

Proposed legislation relating to statute of limitations in actions against public entities

and public employees, 9 Cal.L.Rev.Comm. Reports 175; Report of the Assembly Committee on Judiciary relating to A.B. Nos. 123, 126, 171 [c. 45, 104, 89, 1970 Reg. Sess.], A.J., 2-18-70.

§ 79-35. Title to property vested in district; powers of board

Sec. 35. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in said district, and shall be held by said district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property, as herein provided; and said board may determine, by resolution duly entered in their minutes that any property, real or personal, held by said district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease or otherwise dispose of said property in the manner prescribed by law for such action by counties.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 408, § 35.)

§ 79-36. Proceedings to determine legality of existence of district; conclusiveness of judgment

Sec. 36. The district formed under this act in order to determine the legality of its existence, may institute a proceeding therefor in the Superior Court of this State, in and for the County of San Joaquin, by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal flood control district formed under the provisions of this act. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in a newspaper of general circulation published in said county. Within thirty (30) days after proof of publication of said summons shall have been filed in said proceeding, the State, any property owner or resident in said district, or any person interested may appear as a defendant in said action by serving and filing an answer to said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district and shall be served upon the district attorney before being filed in such proceeding. Such proceeding is hereby declared to be a proceeding in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever, including the district and the State of California.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 409, § 36.)

§ 79-37. Bond of officers and employees; master bond

Sec. 37. The board may require any officer or employee to give bond for the faithful performance of the duties of his office, in such penal sum as may be fixed by the board. When deemed expedient by the board, a master bond may be used which shall provide coverage on more than one officer, employee or agent of the district who is required by the district to give bond. Such bond shall be in the form and for the term which is approved by the board. The premium for such bond shall be paid by the district.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 409, § 37.)

§ 79-38. Use of revenue or interest received or accruing from investment of bond proceeds to pay principal or interest on bonds

Sec. 38. Notwithstanding any provisions of this act to the contrary, in the event the proceeds from the sale of bonds of any zone are invested temporarily in United States bonds, notes, or certificates of indebtedness, or in other legal investments, pending the expenditure of said funds for the purpose or purposes for which said indebtedness was incurred, any revenue or interest received or accruing therefrom may be used to pay the annual or semiannual installments of principal and/or interest on said bonds as same become due.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 409, § 38.)

§ 79-39. Construction of act

Sec. 39. This act, and every part thereof, shall be liberally construed to promote the object thereof, and to carry out its intents and purposes.

(Added by Stats.1956, 1st Ex.Sess., c. 46, p. 409, § 39.)

Library References

Levees and Flood Control ⌘2.
WESTLAW Topic No. 235.
C.J.S. Levees and Flood Control § 3.

§ 79-40. Partial invalidity

Sec. 40. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby. (Added by Stats.1956, 1st Ex.Sess., c. 46, p. 409, § 40.)

Library References

Statutes ⌘64.
WESTLAW Topic No. 361.
C.J.S. Statutes § 92.

§ 79-41. Effect of establishment of district upon existence, property, right or power of other water districts, etc.

Sec. 41. Neither the establishment of the district nor anything in this act shall affect, restrict, control or supersede the existence, property, right, or power of any county water district, reclamation district, irrigation district, water conservation district, protection district, municipality, flood control district, or other district or political subdivision of the State now or hereafter established in or partially within the limits of the district for the purpose or purposes in whole or in part of flood control or for the purpose or purposes in whole or in part of reclamation, storage, distribution, purchase, sale, use, conservation, and development of water. The Legislature because of conditions special to the County of San Joaquin hereby expressly declares its interest to permit within the limits of the San Joaquin County Flood Control and Water Conservation District the existence of more than one district or municipality having similar powers over the same territory in regard to flood control and the reclamation, storage, distribution, purchase, sale, use, conservation, and development of water.

(Added by Stats.1961, c. 933, p. 2566, § 8.)

Library References

Levees and Flood Control ⌘5.
WESTLAW Topic No. 235.

C.J.S. Levees and Flood Control §§ 14 to 19,
27.

§ 79-42. Vested rights

Sec. 42. The formation of the district or the enactment of this act shall not impair the vested right of any person, association, corporation, public district of any kind, or political subdivision of the State, in or to water or the use thereof. (Added by Stats.1961, c. 933, p. 2566, § 9.)

§ 79-43. Purpose of district powers

Sec. 43. It is hereby declared that all of the powers extended to the district relative to the reclamation, storage, distribution, purchase, sale, use, conserva-

tion, and development of water are for the primary purpose of permitting the district to give financial assurances to the United States government, or the State of California, in order to secure water projects beneficial to the County of San Joaquin, that may be constructed by the United States government or the State of California to deliver water to the area of the district.

(Added by Stats.1961, c. 933, p. 2567, § 10.)