

CHAPTER 101

SAN GORGONIO PASS WATER AGENCY LAW

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Section

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An act creating the San Gorgonio Pass Water Agency, and prescribing its boundaries, organization, operation, management, financing and other powers and duties. (Stats.1961, c. 1435, p. 3239.)

Cross References

Procedure for letting contracts, see Public Contract Code § 21511.

§ 101-1. Short title

Section 1. This act is designated, and may be cited and referred to as, the "San Gorgonio Pass Water Agency Law."

(Stats.1961, c. 1435, p. 3239, § 1.)

Library References

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

§ 101-2. Creation; management; general powers; boundaries

Sec. 2. The San Gorgonio Pass Water Agency, hereinafter referred to as the "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, other than territory included in any public district having identity of purpose or substantially identity of purpose without the prior consent of such public district, evidenced by resolution duly adopted by the governing board thereof, and shall include all territory lying within the following described boundaries:

All that real property situate in the County of Riverside, State of California, more particularly described as follows:

Beginning at the northwest corner of Section 16, T. 2 S., R. 3 W., S.B.B. & M.;

Thence south on the west boundary of said Section 16 to the southwest corner thereof;

Thence east on the south boundary of said Section 16 to the southeast corner thereof;

Thence south on the west boundary of Section 22, said Township and Range, to the west quarter section corner thereof;

Thence east on the east and west quarter section line of said Section 22 to the east quarter section corner thereof;

Thence south on the east boundary of said Section 22 to the southeast corner thereof;

Thence east on the north boundary of Section 26, said Township and Range, to the northeast corner thereof;

Thence south on the west boundary of Section 25, said Township and Range, to the west quarter section corner thereof;

Thence east on the east and west quarter section line of said Section 25 to the east quarter section corner thereof;

Thence south on the range line between R. 2 W. and R. 3 W. to the southwest corner of Section 30, T. 2 S., R. 2 W., S.B.B. & M.;

Thence east on section lines 2 miles to the northeast corner of Section 32, said last mentioned Township and Range;

Thence south on the east boundary of said Section 32 to the west quarter section corner of Section 33, T. 2 S., R. 2 W.;

Thence east on the east and west quarter section line of said Section 33 to the east quarter section corner thereof;

Thence south on the east boundary of said Section 33 to the southeast corner thereof;

Thence east on the Township line between T. 2 S. and T. 3 S. to the northwest corner of Section 2, T. 3 S., R. 2 W., S.B.B. & M.;

Thence south on the west boundary of said Section 2 to the west quarter section corner thereof;

Thence east on the east and west quarter section line of said Section 2 to the east quarter section corner thereof;

Thence south on the east boundary of said Section 2 to the southeast corner thereof;

Thence east on the north boundary of Section 12, said last mentioned Township and Range, to the northeast corner thereof;

Thence south on the Range line between R. 1 W. and R. 2 W. to the west quarter section corner of Section 7, T. 3 S., R. 1 W., S.B.B. & M.;

Thence east on the east and west quarter section line of said Section 7 to the east quarter section corner thereof;

Thence south on the east boundary of said Section 7 to the southeast corner thereof;

Thence east on the north boundary of Section 17, said last mentioned Township and Range, to the northeast corner thereof;

Thence south on the east boundary of said Section 17 to the southeast corner thereof;

Thence east along section lines to the northeast corner of Section 24, said last mentioned Township and Range;

Thence south along the San Bernardino Meridian to the west quarter Section corner of Section 19, T. 3 S., R. 1 E., S.B.B. & M.;

Thence east on the east and west quarter section line of said Section 19 to the east quarter section corner thereof;

Thence south on the east boundary line of said Section 19 to the southeast corner thereof;

Thence east on the north boundary of Section 29, said last mentioned Township and Range, to the northeast corner thereof;

Thence south along section lines to the southwest corner of Section 4, T. 4 S., R. 1 E., S.B.B. & M.;

Thence east on the north boundary of Section 9 to the northeast corner thereof;

Thence south on the east line of said Section 9, to the northwest corner of Section 10, T. 4 S., R. 1 E., S.B.B. & M.;

Thence east on section lines 3 miles to the northeast corner of Section 12, T. 4 S., R. 1 E., S.B.B. & M.;

Thence south on the east line of said Section to the Southeast corner of said Section;

Thence east on section lines 4 miles to the southeast corner of Section 10, T. 4 S., R. 2 E., S.B.B. & M.;

Thence north on section lines 14 miles to a point on the northerly boundary of the County of Riverside at the northeast corner of Section 3, T. 2 S., R. 2 E., S.B.B. & M.;

Thence westerly, southerly and westerly on the northerly boundary of the County of Riverside to the point of beginning; and including that portion of the City of Cabazon comprising Section 23, Township 3 South, Range 2 East, San Bernardino Base and Meridian.

(Stats.1961, c. 1435, p. 3239, § 2. Amended by Stats.1962, 1st Ex.Sess., c. 10, p. 162, § 1, eff. April 9, 1962.)

Cross References

Boundaries of Riverside County, see Government Code § 23133.

§ 101-3. Board of directors

Sec. 3. The board of directors shall, at its first meeting, or as soon thereafter as practicable, divide the agency into five divisions, which shall be as nearly as practicable equal in area. The divisions shall be numbered first, second, third, fourth and fifth. One director shall be elected for each division by the voters thereof at the next general agency election following the organization of the agency, and two directors at large shall be elected at the election by the voters of the agency as a whole. Each director elected or appointed for a division shall be an elector in that division, and each director at large shall be an elector in the agency. Each director elected or appointed for a division is herein called a "divisional director," and each of the two directors elected or appointed for the agency at large is herein called a "director at large." The two offices of directors at large shall respectively be known as "director at large No. 1" and "director at large No. 2."

(Stats.1961, c. 1435, p. 3241, § 3. Amended by Stats.1983, c. 41, § 2, eff. May 26, 1983.)

§ 101-4. Adjustment of boundaries; resolution of board

Sec. 4. 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.1961, c. 1435, p. 3242, § 4. Amended by Stats.1998, c. 435 (A.B.2543), § 26.)

§ 101-5. Membership; term of office; election

Sec. 5. The board of directors of the agency organized under this act shall consist of seven members. The Board of Supervisors of Riverside County shall appoint the first board of directors, each of whom shall be a resident or owner of real property within the agency, and shall hold office until his successor is elected. Following the creation of the five divisions of the agency by the first board of directors, and at the first agency election thereafter, all successors of the first board shall be elected or chosen at the time and in the manner provided in the Uniform District Election Law, which shall apply to the agency.

(Stats.1961, c. 1435, p. 3242, § 5. Amended by Stats.1967, c. 249, § 1.)

Historical and Statutory Notes

Section 13 of Stats.1967, c. 249, read as follows: "The amendments made to Sections 5 and 8, and the repeal of Section 6 of the San

Gorgonio Pass Water Agency Law at the 1967 Regular Session of the Legislature shall not become operative until January 1, 1969."

Notes of Decisions

Dual office holding 1

the offices of director, San Gorgonio Pass Water Agency, and director, Beaumont-Cherry Valley Water District. 76 Op.Atty.Gen. 81, 5-4-94.

1. Dual office holding

The doctrine of incompatible public offices precludes a person from holding simultaneously

§ 101-6. Repealed by Stats.1967, c. 249, § 2, operative Jan. 1, 1969**Historical and Statutory Notes**

The repealed section, added by Stats.1961, c. 1435, § 6, related to nominees.

Operative effect of Stats.1967, c. 249, see Historical and Statutory Notes under § 101-5.

§ 101-7. Qualification of electors

Sec. 7. No person shall vote at any agency election held under the provisions of this act who is not a voter within the meaning of the Elections Code, residing in the agency, and in the case of divisional directors in the division of the agency in which he casts his vote. For the purpose of registering voters who shall be entitled to vote at agency elections, the county clerk or registrar of voters is authorized, in any county in which there is the agency, to indicate upon the affidavit of registration whether the voter is a voter of the agency.

In case the boundary line of the agency crosses the boundary line of a county election precinct only those voters within such agency and within such precinct who are registered as being voters within the 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 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 agency with the ballots upon which are printed the names of the candidates for office in the agency.

(Stats.1961, c. 1435, p. 3244, § 7.)

Cross References

Qualification of electors, see Const. Art. 2, §§ 2, 4; Elections Code § 2000 et seq.

§ 101-8. Law governing elections

Sec. 8. The provisions of the Elections Code so far as they may be applicable shall govern all general agency elections and all special agency elections, except as in this act otherwise provided.

(Stats.1961, c. 1435, p. 3244, § 8. Amended by Stats.1967, c. 249, § 3.)

Historical and Statutory Notes

Operative effect of Stats.1967, c. 249, see Historical Note under § 101-5.

§ 101-9. Call and canvass of elections; initiative, recall and referendum; compensation of election officers; voting precincts

Sec. 9. The board of directors of agency shall call and canvass all elections involving matters of initiative, recall 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 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 a consolidation of any or all of such regular election precincts or portions thereof last established. If any 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.1961, c. 1435, p. 3245, § 9.)

Library References

Sovereign immunity study. Cal.Law Revision
Comm. (1963) Vol. 5, p. 81.

§ 101-10. Recall of incumbents

Sec. 10. Every incumbent of an elective office, whether elected by popular vote for a full term, or chosen by the board of directors to fill a vacancy, is subject to recall by the voters of the 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.1961, c. 1435, p. 3245, § 10.)

Cross References

Recall of municipal officers, see Elections Code § 11000 et seq.

§ 101-11. Board of directors as governing body; meetings; officers; quorum

Sec. 11. The board of directors shall be the governing body of the agency. It shall hold its first meeting as soon as possible after the appointment and certification of the first board of directors; 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 even-numbered year, the board of directors shall choose one of its members president, and another of its members vice president.

(Stats.1961, c. 1435, p. 3245, § 11. Amended by Stats.1967, c. 249, § 4.)

§ 101-12. Proceedings of board; compensation of directors; vacancies

Sec. 12. 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 San Gorgonio Pass Water Agency as follows:". Each of the members of the board of directors shall receive for each attendance at the meetings of the board twenty dollars (\$20), or such other amount as the board shall establish, not to exceed one hundred dollars (\$100). No directors, however, shall receive pay for more than three meetings in any calendar month. Any vacancy in the board of directors shall be filled by a majority of the remaining directors, the person so chosen shall be qualified to fill such vacancy and shall hold office for the remainder of the unexpired term.

(Stats.1961, c. 1435, p. 3246, § 12. Amended by Stats.1983, c. 41, § 3, eff. May 26, 1983.)

§ 101-13. Validity of proceedings

Sec. 13. No informality in any proceeding not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the legal existence of said agency and all proceedings in respect thereto shall be held to be valid and in every respect legal and incontestable.

(Stats.1961, c. 1435, p. 3246, § 13.)

§ 101-14. Secretary, treasurer and auditor; duties; assistants and employees

Sec. 14. The board of directors shall at its first meeting, or as soon thereafter as practicable, appoint by a majority vote a secretary, treasurer, and auditor, and define their duties and fix their compensation and may so appoint a general manager and define his duties and fix his compensation. The board may employ such additional assistants and employees, and such engineers, attorneys and professional and other consultants as it may deem necessary to efficiently maintain and operate said agency. Each shall serve at the pleasure of the board.

(Stats.1961, c. 1435, p. 3246, § 14. Amended by Stats.1967, c. 249, § 5.)

§ 101-15. Powers of agency

Sec. 15. The agency shall have the power:

(a) To have perpetual succession.

(b) 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.

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

(d) To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the agency.

(e) 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.

(f) To construct, maintain, improve and operate public recreational facilities appurtenant to any water reservoir operated or contracted to be operated by the 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.

(g) 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; also to sell water under the control of the agency to any city, or any company or public agency serving a city, which city is located wholly or partially within the agency, for distribution only within such city; 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 said agency, sell or otherwise dispose of such surplus water to any persons, firms, public or private corporations or public agencies or other consumers.

(h) To supply and deliver agency 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.

(i) To exercise the right of eminent domain to take any property necessary to supply the agency or any portion thereof with water. 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. In no event

shall the agency exercise the power of eminent domain with respect to property situated outside the boundaries of the agency, unless it first obtains the consent of the board of supervisors of the county in which such property is located to such exercise of power.

(j) 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; also to issue warrants to pay the formation expenses of the agency, which expenses may include fees of attorneys and others employed to conduct the formation proceedings.

(k) To issue negotiable promissory notes, provided that the notes shall be general obligations of the agency payable from revenues and taxes in the same manner as bonds of the agency; 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 shall not exceed the lesser of either one million five hundred thousand dollars (\$1,500,000) or 2 percent of the assessed valuation of the taxable property in the agency, or, if that 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 or her certificate.

(l) 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.

(m) 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 the use of such water during such periods for specific uses which the agency may from time to time find to be nonessential.

(n) To prescribe and define by ordinance, the restrictions, prohibitions and exclusions referred to in subdivision (m) hereof. Every ordinance relating to the matters referred to in this subdivision 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.

(o) To make contracts, to employ labor, and do all acts necessary for the full exercise of the foregoing powers.

(p) 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 corpora-

tion 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.

(q) 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; provided, however, that all waters of the Whitewater River system are excluded from the provisions hereof, except such waters of said system as may be lawfully acquired by the San Gorgonio Pass Water Agency.

(r) Subject to the limitations in subdivision (i), to join with one or more public agencies, private corporations or other persons for the purpose of carrying out any of the powers of the agency, and for that purpose to contract with such other public agencies or private corporations or persons for the purpose of financing such acquisitions, constructions and operations. Such contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of such acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for any agency to effect such acquisitions and to carry on such operations, and shall provide in the powers and methods of procedure for such agency the method by which such agency may contract. Such contracts with other public agencies or private corporations or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof. Particularly, but not exclusively, the agency may contract with the State of California for delivery of water under the State Water Plan. The term "public agency," as used in this subdivision, shall be deemed to mean and include the United States of America or any department or agency thereof, the State of California or any department or agency thereof, a county, city, public corporation, the Metropolitan Water District of Southern California, or other public district of this state. The term "private corporation," as used in this subdivision, shall be deemed to mean and include any private corporation organized under the laws of the United States of America or of this or any other state thereof. Contracts mentioned herein include those made with the United States, under the Federal Reclamation Act of June 17, 1902,¹ and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation. Any such contract with the United States of America or any department or agency thereof, or with any private corporation organized under the laws of the United States of America, by which the agency, or an improvement district thereof, incurs an indebtedness or liability exceeding in any year the income and revenue for such year shall not be executed without the assent of two-thirds of the qualified electors of the agency, or an improvement district thereof, voting at a special election to be held for that purpose, such election to be called and held, so far as practicable, in the same manner as bond elections for the agency. The exact form of such contract need not be

available at the time of the special election, but the (1) purpose of the contract; (2) maximum amount of the indebtedness created thereby; (3) maximum term of repayment, and (4) maximum interest rate on such indebtedness shall be known and included in the proposition or measure submitted to the qualified electors of the agency, or an improvement district thereof, at such special election.

(s) To commence, maintain, intervene in, defend and compromise, in the name of the agency, and to assume the costs and expenses of any and all actions and proceedings which involve or affect the ownership or use of water or water rights, used or useful for any purpose of the agency, or a common benefit to the lands within the agency or inhabitants of the agency, and in any such action or proceeding the agency may act as a representative of any class or classes of users of water within the agency, producers of water within the agency or owners of rights to water used or useful within the agency, or owners of property within the agency.

(t) Distribute water to persons in exchange for ceasing or reducing ground-water extractions and to fix the terms and conditions of any contract under which producers may agree voluntarily to use replenishment water from a nontributary source in lieu of groundwater, and to such end an agency may become a party to such contract and pay from the agency funds such portion of the cost of such replenishment 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 by the resulting replenishment.

(u) To issue bonds under Section 28 of this act for the purpose of providing money required to be paid by this agency to the State of California or any agency thereof under any contract which shall be made with it, or as all or part of the terms and conditions under which the corporate area of the agency may be annexed to and become a part of any metropolitan water district organized under the Metropolitan Water District Act. The amount of the bonds may include expenses of all proceedings for the authorization, issuance and sale of the bonds.

(v) To issue revenue bonds for any purpose for which general obligation bonds may be issued, and 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.

(w) 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 agency. In the application of the Improvement Act of 1911 to proceedings instituted by the agency, the terms used in the Improvement Act of 1911 shall have the following meanings:

(1) "City council" and "council" shall mean the board of directors of the agency.

(2) "Municipality" and "city" shall mean the agency.

- (3) "Clerk" and "city clerk" shall mean the secretary.
- (4) "Superintendent of streets," "street superintendent" and "city engineer" shall mean the chief engineer of the agency.
- (5) "Tax collector" shall mean the county tax collector.
- (6) "Treasurer" and "city treasurer" shall mean the treasurer of the agency.
- (7) "Mayor" shall mean the president of the board of directors of the agency.
- (8) "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 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 and recorded in the office of the Secretary of the San Gorgonio Pass Water Agency.

(x) To disseminate information concerning the activities of the agency; and in instances in which it shall be found by two-thirds vote of the board of directors to be necessary for the protection of agency rights and properties to disseminate information concerning such rights and properties, also concerning matters which in the judgment of the board may adversely affect such rights and properties; provided, that expenditures during any fiscal year for such purposes shall not exceed one cent (\$0.01) for each one hundred dollars (\$100) of assessed valuation of such agency.

(Stats.1961, c. 1435, p. 3246, § 15. Amended by Stats.1967, c. 249, § 6; Stats.1969, c. 1027, p. 2000, § 1; Stats.1975, c. 586, p. 1277, § 9; Stats.1990, c. 1052 (S.B.2499), § 1, eff. Sept. 19, 1990.)

¹ 43 U.S.C.A. § 372 et seq.

Law Revision Commission Comment

1975 Amendment

The deleted portions of subdivision 9 of Section 15 [Water C.App. § 101.15] 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), 1240.110 (right to take any property or any right or interest in property). See also Code Civ.Proc. § 1235.170 ("property" defined). Former subdivision 16 was unnecessary. See Code Civ.Proc. § 1250.210 and Comment thereto.

Historical and Statutory Notes

Operative effect of 1975 amendment, see note under § 98-61.

Library References

Eminent Domain ⇔9.
 Waters and Water Courses ⇔183.
 WESTLAW Topic Nos. 148, 405.
 C.J.S. Eminent Domain § 24.
 C.J.S. Waters §§ 228, 235.

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, p. 489.

§ 101-15.1. Hydroelectric energy; development

Sec. 15.1. The agency shall have the power to construct, operate and maintain works to develop hydroelectric energy, for use by the agency in the

operation of its works or as a means of assisting in financing the construction, operation and maintenance of its projects for the control, conservation, diversion and transmission of water and to enter into contracts for the sale of such energy for a term not to exceed 50 years. Such energy may be marketed only at wholesale to any public agency or private entity, or both, or the federal or state government.

(Stats.1961, c. 1435, p. 3251, § 15.1.)

Library References

Electricity ⇔1½.
WESTLAW Topic No. 145.
C.J.S. Electricity § 6 et seq.

§ 101-15.2. Falling water for electric energy; use

Sec. 15.2. In connection with the construction and operation of the works of the agency, the agency shall have the power to contract for the sale of the right to use falling water for electric energy purposes with any public agency or private entity engaged in the retail distribution of electric energy, for a term not to exceed 50 years.

(Stats.1961, c. 1435, p. 3252, § 15.2.)

Library References

Waters and Water Courses ⇔200, 201.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 264 et seq., 277 et seq.

§ 101-15.3. Maximum interest rate payable

Sec. 15.3. The maximum rate of interest the agency shall be authorized to pay on any of its bonds, promissory notes, or other obligations shall not exceed the higher of 8 percent per annum, the maximum interest rate for municipal water district bonds as set forth in Section 71953 of the Water Code, or the maximum interest rate set forth in a general statute governing local agencies or districts.

(Added by Stats.1990, c. 1052 (S.B.2499), § 2, eff. Sept. 19, 1990.)

§ 101-15.5. Allocation of water from state water project

Sec. 15.5. It is the intent of the Legislature that, in allocating water received from the State Water Project pursuant to this act, the highest priority shall be given to eliminating groundwater overdraft conditions within any agency or district receiving the water.

(Added by Stats.1990, c. 1052 (S.B.2499), § 3, eff. Sept. 19, 1990.)

§ 101-16. Exercise and delegation of administrative, executive and ministerial powers

Sec. 16. All powers, privileges and duties vested in or imposed upon the agency incorporated hereunder shall be exercised and performed by and

through the board of directors; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the officers created hereby and by the board of directors acting hereunder.

The board of directors shall have the power:

(1) To fix the time and place or places at which its regular meetings shall be held, and shall 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 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 such 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 fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service; provided, that 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 the provisions of Section 36 or 37 hereof, shall be deemed to be a rate for a different class or condition of service.

(Stats.1961, c. 1435, p. 3252, § 16. Amended by Stats.1984, c. 1128, § 161.)

Historical and Statutory Notes

For subject matter formerly contained in this section relating to contracts, see, now, Pub. Con.C. § 21511.

§ 101-17. Emergency or shortage of water; finding; reception in evidence

Sec. 17. 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 13 or 14 of Section 15 of this act, 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.1961, c. 1435, p. 3253, § 17.)

Library References

Waters and Water Courses ⇨202.
WESTLAW Topic No. 405.
C.J.S. Waters § 280.

§ 101-18. Violations; penalties

Sec. 18. From and after the publication or posting of any ordinance as provided in subdivision 14 of Section 15 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.1961, c. 1435, p. 3253, § 18.)

Library References

Waters and Water Courses ⇨211.
WESTLAW Topic No. 405.
C.J.S. Waters § 313.

§ 101-19. Superseded

Historical and Statutory Notes

Section 101-19, derived from Stats.1961, c. 1435, p. 3254, § 19, relating to action to test validity of contract, was superseded by § 19.5 of that act [§ 101-19.5] upon the enactment of Assembly Bill No. 1412 [Stats.1961, c. 1479, p. 3331]. See § 101-19.5 and Historical Note thereunder.

§ 101-19.5. Action to determine validity of contract

Sec. 19.5. An action to determine the validity of any contract authorized by paragraph 19 of Section 15 may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. This section shall become operative only if Assembly Bill No. 1412 is enacted by the Legislature at its 1961 Regular Session, in which case it shall supersede Section 19 of this act.

(Stats.1961, c. 1435, p. 3254, § 19.5.)

Historical and Statutory Notes

Assembly Bill No. 1412 was enacted by the Legislature at its 1961 Regular Session as Stats. 1961, c. 1479, p. 3331, effective July 13, 1961.

§ 101-20. Repealed by Stats.1970, c. 447, p. 896, § 41

Historical and Statutory Notes

The repealed section, added by Stats.1961, c. 1435, § 20, related to conflict of interest.

§ 101-21. Officers and employees; duties; bonds; designation of depositories of funds

Sec. 21. The president, vice 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.

If the president is absent or unable to act, the vice president shall exercise the powers of the president granted by this act.

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 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.1961, c. 1435, p. 3255, § 21. Amended by Stats.1967, c. 249, § 7.)

Library References

Deposits and Escrows ⇐1.
WESTLAW Topic No. 122A.
C.J.S. Depositories §§ 1, 2.

§ 101-22. Construction of works along and across streets, watercourses, railways, ditches, etc.; right of way over public lands

Sec. 22. 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 unite 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 state highway shall be subject to the provisions of Chapter 3 of Division 1 of the Streets and Highway Code.¹

(Stats.1961, c. 1435, p. 3255, § 22.)

¹ Streets and Highways Code § 660 et seq.

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.

§ 101-23. Claims against agency

Sec. 23. All claims for money or damages against this 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, or by other statutes or regulations expressly applicable thereto.

(Stats.1961, c. 1435, p. 3256, § 23. Amended by Stats.1970, c. 104, p. 326, § 11, operative Jan. 1, 1971.)

Library References

Claims actions and judgments against public entities and public employees, recommendation. Cal.Law Revision Comm. (1963) Vol. 4, p. 1007 et seq.
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.

§ 101-24. Repealed by Stats.1963, c. 1685, p. 3309, § 33

Historical and Statutory Notes

The repealed section, added by Stats.1961, c. 1435, p. 3256, § 24, related to liability of directors, officers, agents and employees.

Amendment of § 101-24 by Stats.1963, c. 1683, p. 3301, § 15, 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. 3310, see Historical Note under repeal line for Water Code § 8535.

§ 101-25. Water rates

Sec. 25. The board of directors, so far as practicable, shall fix such rate or 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.1961, c. 1435, p. 3256, § 25.)

Library References

Waters and Water Courses ⇨203.
WESTLAW Topic No. 405.
C.J.S. Waters § 284 et seq.

§ 101-26. Taxation; purpose; excepted moneys

Sec. 26. If the revenues of the agency, or any improvement district therein, will be inadequate for any cause to pay the operating expenses of the agency, provide for repairs and depreciation of works owned or operated by it, and to meet all obligations of the agency, including principal of or interest on any bonded debt of the agency, or any improvement district thereof, as it becomes due, then the board of directors of this 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 such charges and expenses, as well as providing the funds required under Section 25 of this act, subject to the limitations in this section stated. Moneys necessary for the purpose of paying principal or interest of any bonded debt of the agency or for paying any sum which the agency shall be obligated to pay to the State of California or any agency thereof are herein called "excepted moneys." There shall be no limit on the tax which the agency may impose to pay "excepted moneys"; but the rate of tax which may be levied by the board of directors of the agency upon the agency as a whole and/or any improvement district thereof for purposes other than the payment of "excepted moneys" shall not exceed forty cents (\$0.40) per one hundred dollars (\$100) of assessed value, unless such excess rate shall have been first approved by a majority vote at an election within the agency, or if the excess tax rate be within an improvement district or districts, then within such improvement district or districts.

(Stats.1961, c. 1435, p. 3257, § 26.)

Library References

Waters and Water Courses ⇨198.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 229, 262.

§ 101-27. Tax rates; lien of tax

Sec. 27. 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 within a reasonable time previous to the time when the board of supervisors is required by law to fix its tax rate, the board of directors shall certify to the board of supervisors the rate or rates so fixed and shall furnish to the board of supervisors a statement in writing containing the following: (a) an estimate of

the minimum amount of money required to be raised by taxation during the fiscal year for the payment of the principal of and interest on any bonded debt of the agency or of an improvement district thereof as will become due before the proceeds of a tax levied at the next general tax levy will be available; (b) an estimate of the minimum amount of money required to be raised by taxation during the fiscal year for all other purposes of the agency. The board of directors shall direct that at the time and in the manner required by law for the levying of taxes for county purposes, such board of supervisors shall levy, in addition to such other tax as may be levied by such board of supervisors, at the rate or rates so fixed and determined by the board of directors, a tax upon the property within the agency, or improvement district thereof benefited by the bonded debt, as the case may be, and it is made the duty of the officer or body having authority to levy taxes within each county to levy the tax so required. Taxes for the payment of the interest on or principal of any bonded debts shall be levied on the property within the agency, or improvement district thereof, benefited by the bonded debt, as determined by the board of directors in the resolution declaring the necessity to incur the debt. Taxes for other purposes of the agency shall be levied on all property in the district or portion thereof subject to the particular tax. 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 enforced by the same means as provided for the enforcement of liens for state and county taxes.

(Stats.1961, c. 1435, p. 3257, § 27. Amended by Stats.1962, c. 10, p. 52, § 2, eff. April 9, 1962; Stats.1967, c. 249, § 8.)

§ 101-27.1. Facility capacity fee; determination, establishment, imposition, collection and use

Sec. 27.1. (a) In addition to the other powers provided in this act, the agency may establish and impose a facility capacity fee, 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 that obtains all or any portion of its water supplies from the agency. The necessity for the fee and the amounts thereof shall be determined, established, imposed, collected, and used only in the manner provided in this section.

(b) At such time or times as the board of directors shall find and determine that its then existing water importation, production, treatment, transportation, or delivery facilities or other related works, are inadequate to meet anticipated demand, the board of directors may, as provided in this section, adopt and carry out (1) a plan for obtaining, or constructing additional facilities, works,

property, improvements, and supplies of water, (2) a plan for increasing or enlarging, as may be appropriate, its then existing capacity and facilities for obtaining, importing, producing, treating, and delivering that additional quantity of water to retail water distributors within the agency, and (3) a plan for financing the cost or reimbursing the agency for advancing 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, which lands by reason of new development or new construction thereon will need new water service and will be benefited by making the additional supplies of water available for purchase by the retail water distributors that will supply those lands with water.

(c) The facility capacity fee referred to in subdivision (a) shall be adopted, established, and imposed only following a public hearing and in accordance with the requirements set forth in Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code, as it now exists or may hereafter be amended.

(d) Following the public hearing or hearings, the board of directors (1) shall determine the extent of the need for the additional property and supplies of water to be supplied by the agency, and (2) shall determine whether then existing facilities and other works and improvements of the agency are adequate to import, produce, treat, transport, and deliver those additional quantities of water. If the board of directors determines that there is an additional need or that the agency's then existing facilities, works, property, and improvements are inadequate to serve that water, or both, the board of directors shall adopt the plan or plans specified in subdivision (b), and shall establish the amount of the facility capacity fee, if any, which shall be imposed to finance the cost or reimburse the agency for advancing the cost of acquiring or constructing facilities, works, property, improvements, and supplies of water to satisfy existing or anticipated demand.

(e) In making its determinations as to how to allocate the costs of the plan or plans within water service areas of the agency, the board of directors shall determine the amount of the facility capacity fee to be imposed for and upon each new connection to the delivery facilities of the retail water distributors that will supply those lands with water. The facility capacity fee shall be fixed and determined at an amount reasonably related to the benefit to the land, when the volume of water to be delivered to the new retail connection is considered.

(f) The board of directors may contract with the counties in which the agency is located, or with cities located within the agency, for the collection of the facility capacity fee along with building permit fees or other fees related to the improvement of property, or may contract for collection of the facility capacity fee by the retail water distributor.

(g) The proceeds of the facility capacity fee imposed and collected pursuant to this section shall be used exclusively by the board of directors for purposes authorized by this section as specified in the plans adopted pursuant to subdivisions (b), (d), and (e).

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

(i) Any judicial action or proceeding to attack, review, set aside, void, or annul any resolution imposing a facility capacity fee of the agency, or a resolution modifying or amending an existing fee duly enacted and adopted by the agency, shall be commenced within 120 days of the effective date of the resolution. Any such action or proceeding shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(Added by Stats.1990, c. 1052 (S.B.2499), § 4, eff. Sept. 19, 1990.)

§ 101-28. Indebtedness; election; actions to contest validity of bonds

Sec. 28. Whenever the board of directors deems it necessary for the agency to incur a bonded indebtedness for the acquisition, construction, completion, or 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; (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 5 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 irregulari-

ties 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.1961, c. 1435, p. 3258, § 28.)

Library References

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

§ 101-29. Acquisition, construction or repair of improvements; bonded indebtedness; hearing; special election; irregularities

Sec. 29. 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, 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 printed and published in the 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 the 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 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 San Gorgonio Pass Water Agency," and the determinations made in said resolution shall be final and conclusive. After the formation of such improvement district within the 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 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 5 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 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 proceed-

ings in relation thereto, including the formation of the improvement district, shall be held to be valid and in every respect legal and incontestable.

(Stats. 1961, c. 1435, p. 3259, § 29.)

§ 101-30. Annexation; procedure; action to contest validity

Sec. 30. Any portion of the 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 may be made 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 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 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 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 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 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 annexation shall be held to be valid and in every respect legal and incontestable.

(Stats. 1961, c. 1435, p. 3262, § 30.)

§ 101-31. Favorable vote to incur indebtedness; issuance of bonds; series; maturity; form; sale proceeds

Sec. 31. 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 28 or of

Section 29 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 five percent (5%) 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 agency, said bonds are bonds of the agency and shall be issued in the name of the agency and shall be designated "Bonds of the San Gorgonio Pass 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.1961, c. 1435, p. 3264, § 31.)

§ 101-32. Exemption of bonds from taxation

Sec. 32. Any bonds issued by the 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.1961, c. 1435, p. 3266, § 32.)

Library References

Taxation ☞318.
WESTLAW Topic No. 371.
C.J.S. Taxation §§ 382, 394.

§ 101-33. Formation of improvement districts; procedure; special election; action to contest validity

Sec. 33. 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 29 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 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 San Gorgonio Pass Water Agency," and the determinations made in said resolution shall be final and conclusive. After the formation of such improvement district within the 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 day 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 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 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.1961, c. 1435, p. 3266, § 33.)

Library References

Municipal Corporations ¶450.
WESTLAW Topic No. 268.
C.J.S. Municipal Corporations § 1359.

§ 101-34. Advancement of general funds; repayment; interest rate

Sec. 34. The board of directors may advance general funds of the agency to accomplish the purposes of an improvement district formed in accordance with Sections 29 or 33 and, if the improvement district is formed under Section 29, may repay the agency from the proceeds of the sale of bonds authorized for such purpose, or if the improvement district is formed under Section 33 may, in the formation of such improvement district, provide that the agency shall be repaid with interest at not to exceed 5 percent from the special taxes levied exclusively upon the taxable property in said improvement district.

(Stats.1961, c. 1435, p. 3268, § 34.)

§ 101-35. Interest on bonds

Sec. 35. Interest on any bonds issued by the agency coming due before the proceeds of a tax levied at the next general tax levy after the sale of said bonds

are available, may be paid from the proceeds of the sale of such bonds; provided, that not more than five percent (5%) of the proceeds of any sale of the bonds shall be used for said purpose.

(Stats.1961, c. 1435, p. 3268, § 35.)

§ 101-36. Annexation by election; procedure

Sec. 36. Land not a part of the agency whether or not contiguous to it or to other portions added to the agency, and consisting of any portion of the county wherein the agency was formed or of any municipality therein, or of land in any county contiguous to the county wherein the agency was formed or of any municipality therein, may be included within the agency, other than land included in any public district having identity of purpose or substantial identity of purpose, without the prior written consent of such public district, evidenced by a resolution duly adopted by the governing board thereof. 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. 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 such 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 printed and published in such county, 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 such agency of special taxes upon taxable property which such annexed area or areas in addition to the taxes elsewhere in this act authorized to be levied by such 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. Such terms and conditions also may further provide that the taxable property in the annexed area be subject to taxation to the extent set forth in such terms and conditions for the purpose of the payment of bonds and other obligations of such agency at the time authorized or outstanding. 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 county 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 indicate 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 San Gorgonio Pass 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 recorder of the county 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 clerk of the county in which such 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, and the board of directors of such 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.1961, c. 1435, p. 3268, § 36.)

§ 101-37. Uninhabited territory; annexation proceedings

Sec. 37. Uninhabited territory within a county in which the agency is situated, other than territory included in any public district having identity of purpose or substantial identity of purpose, without the prior written consent of such public district, evidenced by a resolution duly adopted by the governing board thereof, 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, 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 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 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 and shall contain a prayer that such area be annexed to such 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 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 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 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, and at last 30 days before such hearing shall mail notice thereof to the owners of land in the territory proposed to be annexed according to the records of the county assessor of the county in which such territory is situated, addressed to such owners at the addresses shown upon the records of such county assessor.

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, further proceeding shall not be taken. If such protest is not made, the ordinance approving such annexation shall set forth and describe the boundaries of the territory so 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 such 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 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. Such terms and conditions also may further provide that the taxable property in the annexed area be subject to taxation to the extent set forth in such terms and conditions for the purpose of the payment of bonds and other obligations of such agency at the time authorized or outstanding. 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 role of the county, 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 clerk of the county in which such agency is situated. From the 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, and the board of directors of such 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 36 of this act.

(Stats.1961, c. 1435, p. 3271, § 37.)

§ 101-38. Exclusion of inhabited territory; proceedings

Sec. 38. Territory included within the agency may 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 ten (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, or parts thereof, are included in the areas so proposed to be excluded, such petition must be signed by at least ten (10) per centum of the voters of each such city, or part thereof, so voting at such election. 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 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 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

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 may 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, which may be adjourned 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. If 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 San Gorgonio Pass 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. 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 agency is situated. From and after the date of such certificate, the area named therein shall be deemed excluded from, and shall no longer form a part of, said agency, but the taxable property within such excluded area shall continue taxable by the agency

for the purpose of paying the bonded or other indebtedness of the 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.1961, c. 1435, p. 3274, § 38.)

§ 101-39. Exclusion of uninhabited territory; proceedings

Sec. 39. Uninhabited territory included within the 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. 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 a part thereof, then included within such agency shall be included in the territory so proposed to be excluded from 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 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 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 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.

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 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 agency, but the taxable property within such excluded area or areas shall continue taxable by such agency for the purpose of paying the bonded or other indebtedness of the 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 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 38 of this act.

(Stats.1961, c. 1435, p. 3277, § 39.)

§ 101-40. Ordinances; methods of passing

Sec. 40. Ordinances may be passed by the voters of the agency organized under the provisions of this act in accordance with the methods provided by the Elections Code for direct legislation in cities.

(Stats.1961, c. 1435, p. 3279, § 40.)

§ 101-41. Veto by voters; proceedings

Sec. 41. 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.1961, c. 1435, p. 3279, § 41.)

§ 101-42. Dissolution; procedure

Sec. 42. The San Geronio Pass 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 area included in the agency who voted at the last gubernatorial election, 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 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 to be insufficient by him, supplemental petitions may be filed at the time 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 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 is 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 San Gorgonio Pass Water Agency be disincorporated; said order to take effect at the time hereinafter provided. Said board of supervisors shall in case said 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 agency shall be forever disincorporated. (Stats.1961, c. 1435, p. 3279, § 42.)

Library References

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

§ 101-43. Debts of dissolved agency; payment; assets

Sec. 43. Upon 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 same amount of money in the treasury and all indebtedness due or coming due said agency, and said agency shall before the expiration of 30 days turn over to the treasury of said county all moneys of said agency in his 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 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 such 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 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 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.1961, c. 1435, p. 3281, § 43.)

§ 101-44. Actions to test validity of annexation or exclusion

Sec. 44. 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 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.1961, c. 1435, p. 3282, § 44.)

Library References

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

§ 101-45. Construction; definitions

Sec. 45. Nothing in this act shall be so construed as repealing or in anywise 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, 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 San Gorgonio Pass 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.1961, c. 1435, p. 3282, § 45.)

Library References

Statutes ⇨174.
WESTLAW Topic No. 361.
C.J.S. Statutes §§ 311, 313.

§ 101-46. Nomination of candidates; registrar of voters to act as county clerk

Sec. 46. If there shall be a registrar of voters, other than the county clerk, in the principal county in which the agency 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.1961, c. 1435, p. 3283, § 46. Amended by Stats.1967, c. 249, § 9.)

§ 101-47. Lands in other counties; duties of secretary of board and auditor; apportionment of taxes; definitions

Sec. 47. 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 San Gorgonio Pass 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 15th 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 27 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 San Gorgonio Pass 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 San Gorgonio Pass Water Agency is located. (Stats.1961, c. 1435, p. 3283, § 47.)

§ 101-48. Repeal; partial invalidity

Sec. 48. 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.1961, c. 1435, p. 3284, § 48.)

Library References

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

§ 101-49. Public corporation or agency; annexation, inclusion or addition; identity

Sec. 49. The inclusion in, or annexation or addition to this 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 this agency. No public corporation or public agency having identity of purpose or substantial identity of purpose shall be formed partly or entirely within this agency, whether by incorporation or annexation, without the consent of the board of directors of this agency.

(Stats.1961, c. 1435, p. 3284, § 49.)

§ 101-50. Water standby or availability charge

Sec. 50. 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 Sections 54984.4 and 54984.5 of the Government Code, concerning providing notice and a hearing with regard to levying a charge. 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 charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the agency 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 be a lien on all the property benefited thereby. Liens for such charges shall be of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes.

(Added by Stats.1967, c. 249, § 10. Amended by Stats.1990, c. 1052 (S.B.2499), § 5, eff. Sept. 19, 1990.)

§ 101-51. Annexation of territory

Sec. 51. The board, by resolution, may initiate proceedings for the annexation of territory within the agency, whether contiguous or not to an improvement district, to such improvement district

The resolution proposing annexation shall:

(a) Declare that proceedings have been initiated by the board pursuant to this article.

(b) State the reason for proposing the annexation.

(c) Set forth a description of the area proposed to be annexed, which may be made 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 area proposed to be annexed.

(d) State the terms and conditions of the annexation.

(e) State that the holders of title to any of the lands sought to be annexed may file written protests with the secretary to the annexation or the annexation upon such terms and conditions.

(f) Fix the time and place of a meeting at which the board will receive written protests theretofore filed with the secretary, receive additional written protests, and hear from any and all persons interested in the annexation.

The text of the resolution proposing annexation shall be published, pursuant to Section 6066 of the Government Code, prior to the time of hearing in at least one newspaper printed and published in the agency, if there is a newspaper published and printed in the agency.

A copy of the resolution proposing annexation shall also be posted in three public places within the improvement district and three public places in the area proposed to be annexed at least two weeks prior to the hearing.

The board shall proceed with the hearing at the time and place fixed therefor and may continue the hearing, if need be, from time to time. All interested persons will be heard at the hearing.

If written protests are filed by the holders of title of one-half of the value of the territory proposed to be annexed as shown by the last equalized assessment roll of each county in which the territory is situated, further proceedings shall not be taken, and the board shall refuse the annexation by a resolution so stating.

If written protest is not made by the owners of one-half of the value of the territory proposed to be annexed, and if, at the conclusion of the hearing, the board finds and determines from the evidence presented at the hearing that the area proposed to be annexed to an improvement district will be benefited thereby, and that the improvement district to which the area proposed to be annexed will also be benefited thereby and will not be injured thereby, the board may, by resolution, approve such annexation.

The resolution shall describe the territory annexed, which may be by reference to a map on file with the secretary, which map shall govern for all details as to the extent of the annexed area. The resolution shall also state the terms and conditions of annexation as theretofore determined by resolution of the board.

If the board finds and determines that either the area proposed to be annexed to the improvement district will not be benefited thereby or that the improvement district to which the area is proposed to be annexed will not be benefited thereby and will be injured thereby, the board shall by resolution disapprove such annexation.

From and after the date of the adoption of the resolution approving the annexation, the area described therein is added to and forms a part of the improvement district.

The taxable property in the annexed area shall be subject to taxation after the annexation thereof for the purposes of the improvement district, including the payment of the principal of and interest on bonds and other obligations of the improvement district authorized and outstanding at the time of the annexation as if the annexed property had always been a part of the improvement district.

The board may do all things necessary to enforce and make effective the terms and conditions of annexation fixed by it.

Any action or proceeding in which the validity of an annexation to an improvement district pursuant to this article is contested, questioned, or denied shall be commenced within three months after the date of the resolution of the board approving the annexation of the territory to an improvement district; otherwise, the annexation shall be held valid and in every respect legal and incontestable.

(Added by Stats.1967, c. 249, § 11.)

§ 101-52. Dissolution of improvement district

Sec. 52. Notwithstanding any other provision herein, whenever the board deems it necessary for any improvement district formed pursuant to this law to be dissolved, it shall by resolution declare its intention to dissolve the improvement district.

As used in this law, "improvement district" includes any improvement district whether originally inhabited or uninhabited.

The resolution of intention shall state:

- (a) The reason why the improvement district should be dissolved.
- (b) If the improvement district was formed pursuant to Section 29 of this law, or any section which provides for the issuance of bonds, that no bonds have been issued for the improvement district or are outstanding.
- (c) If the improvement district was formed pursuant to Section 33 of this law, that no indebtedness or liability was incurred for the improvement district or that no such liability or indebtedness is outstanding.
- (d) That a map showing the exterior boundaries of the improvement district, with relation to the territory immediately contiguous thereto, is on file with the secretary and is available for inspection by any person or persons interested.
- (e) The time and place for a hearing by the board on the question of the dissolution of the improvement district.
- (f) That at such time and place any person interested, including all persons owning property in the agency or in the improvement district will be heard.

Notice of the 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 agency, if there is a newspaper circulated in the agency. Such notice shall also be given by posting a copy of the resolution in three public places within the improvement district for at least two weeks before the time fixed for the hearing.

At the time and place fixed in the resolution of intention, or at any time or place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing any person interested, including all persons owning property in the agency, or in the improvement district, may appear and present any matters material to the proposed dissolution.

At the conclusion of the hearing, the board shall by ordinance determine whether it is necessary to dissolve the improvement district. If so, the ordinance shall state that the exterior boundaries of the improvement district are set forth on a map on file with the secretary and shall declare the improvement district dissolved. The determinations made in the ordinance shall be final and conclusive.

When the ordinance declaring an improvement district dissolved becomes effective, the dissolution of such improvement district is complete.

The taxable property within the boundaries of the dissolved improvement district shall continue to be taxed for any indebtedness of the agency contracted for such dissolved improvement district until the indebtedness has been satisfied, to the same extent that such property would be taxable for such purpose if the dissolution had not occurred.

Any action or proceeding in which the validity of the dissolution of an 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 ordinance dissolving the improvement district; otherwise, the dissolution of the improvement district and, all proceedings in relation thereto, shall be held to be valid and in every respect legal and incontestable.

After a bond election has been held in an improvement district formed pursuant to Section 29 of this law and less than two-thirds of the votes cast in such election were in favor of the measure, the board may within one year of the date of such election call and hold another election as provided in Section 29 of this law for the purpose of resubmitting said measure to the electors of said improvement district. If said measure is not so resubmitted said improvement district, on the anniversary date of the election, is dissolved without further action by the board. If said measure is resubmitted and fails to receive more than two-thirds of the votes cast in such election in favor of said measure said improvement district is dissolved following the canvass of the election returns.

(Added by Stats.1967, c. 249, § 12.)