

# Santa Clara Valley Water District Act

## § 1. Short title

This act shall be known and may be cited as the Santa Clara Valley Water District Act.

## § 2. Creation; name of district; boundaries; district

A flood control and water district is hereby created to be called the Santa Clara Valley Water District. Said district shall consist of all the territory of the County of Santa Clara lying within the exterior boundaries of said county. As used in this act "district" means the Santa Clara Valley Water District.

## § 3. Zones; establishment; change of boundaries

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

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

## § 4. Objects and purposes

(a) The purposes of this act are to authorize the district to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County.

(b) It is the intent of the Legislature that the district work collaboratively with other appropriate entities in Santa Clara County in carrying out the purposes of this act.

(c) The district may take action to do all of the following:

(1) Protect Santa Clara County from floodwater and stormwater of the district, including tidal floodwater and the floodwater and stormwater of streams that have their sources outside the district, but flow into the district.

(2) Protect from that floodwater or stormwater the public highways, life and property in the district, and the watercourses and watersheds of streams flowing within the district.

(3) Provide for the conservation and management of floodwater, stormwater, or recycled water, or other water from any sources within or outside the watershed in which the district is located for beneficial and useful purposes, including spreading, storing, retaining, and causing the water to percolate into the soil within the district.

(4) Protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters.

(5) Increase and prevent the waste or diminution of the water supply in the district.

## Santa Clara Valley Water District Act

(6) Obtain, retain, protect, and recycle drainage, stormwater, floodwater, or treated wastewater, or other water from any sources, within or outside the watershed in which the district is located for any beneficial uses within the district.

(7) Enhance, protect, and restore streams, riparian corridors, and natural resources in connection with carrying out the purposes set forth in this section.

(8) Preserve open space in Santa Clara County and support the county park system in a manner that is consistent with carrying out the powers granted by this section.

### § 5. Nature of district; powers

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

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

## Santa Clara Valley Water District Act

highways, life, and property in the district, and the watercourses outside of the district of streams flowing into the district.

7. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways, and other rights-of-way; to acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair, and improvement of the works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to that end, and for those purposes and uses, to acquire and to hold in the name of the state, the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers, and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to cooperate with, act in conjunction with, enter into and to do any acts necessary for the proper performance of any agreement with the State of California, or any of its engineers, officers, boards, commissions, departments, or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments, or agencies or with any state, city and county, city, county, district of any kind, public or private corporation, association, firm, or individual, or any number of them, for the ownership, joint acquisition, leasing, disposition, use, management, construction, installation, extension, maintenance, repair, or operation of any rights, works, or other property of a kind which might lawfully be acquired or owned by the district or for the lawful performance of any power or purpose of the district provided for in this act, including, but not limited to, the granting of the right to the use of any water or the right to store that water in any reservoir of the district or to carrying that water through any tunnel, canal, ditch, or conduit of the district or for the delivery, sale, or exchange of any water right, water supply, or water pumped, stored, appropriated, or otherwise acquired or secured for the use of the district, or for controlling drainage waters, or flood or storm waters of streams in or running into the district, or for the protection of life or property therein, or for the purpose of conserving any waters for the beneficial use within the district, or in any other works, uses, or purposes provided for in this act; and to adopt and carry out any definite plan or system for accomplishing, facilitating, or financing all work which may lawfully be accomplished by the district and to enforce that plan or system by resolution or ordinance.

8. To carry on technical and other necessary investigations, make measurements, collect data, make analyses, studies, and inspections pertaining to water supply, water rights, control of flood and storm waters, and use of water both within and outside the district relating to watercourses or streams flowing in or into the district. For these purposes, the district shall have the right of access through its authorized representatives to all properties within the district and elsewhere relating to watercourses and streams flowing in or into said district. The district, through its authorized representatives, may enter upon such lands and make examinations, surveys, and maps thereof.

9. To prescribe, revise, and collect fees and charges for facilities furnished or to be furnished to any new building, improvement, or structure by the use of any flood control or storm drainage system constructed or to be constructed in a zone of the district, and whenever a drainage or flood control problem is referred to the district by the County of Santa Clara, or any incorporated city therein, to require the installation of drainage or flood control improvements necessary and/or convenient for needs of the zone, including, but not limited to, residential, subdivision, commercial, and industrial drainage and flood control needs, that county and those cities being hereby authorized to refer all drainage and flood control problems, arising under the Subdivision Map Act (Division 2 (commencing with *Section 66410*) of *Title 7 of the Government Code*) or otherwise, to the district for solution. Revenues derived under this section shall be used for the acquisition, construction, reconstruction, maintenance, and operation of the flood control or storm drainage facilities of the zone, to reduce the principal or interest of any bonded indebtedness thereof, or to replace funds expended on behalf of that zone derived from the fund created pursuant to subdivision 1 of Section 13.

10. To incur indebtedness, and to issue bonds in accordance with this act.

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

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

**13.** To have the power and right to disseminate information concerning the rights, properties, activities, plans, and proposals of the district; provided, however, that expenditures during any fiscal year for those purposes shall not exceed one-half cent (\$0.005) for each one hundred dollars (\$100) of assessed valuation of the district.

**14.** To pay to any city, public agency, district, or educational institution recognized under Chapter 3 (commencing with *Section 94301*) of *Part 59 of the Education Code*, a portion of the cost of water imported by that city, public agency, district, or educational institution into, for use within, and of benefit to the Santa Clara Valley Water District.

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

**16. To acquire, construct, maintain, operate, and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the district.**

**17.** To acquire, construct, maintain, operate and install, lease, and control facilities for the generation, transmission, distribution, sale, exchange, and lease of electric power.

**18.** To require the sealing of abandoned or unused wells according to standards adopted by the board by ordinance and designed to protect the groundwater resources of the district from contamination. Upon and following the effective date of the ordinance, the County of Santa Clara or any incorporated city therein shall require all persons applying for any land development permit or approval to show the existence and location of any water well upon a map of the property the subject of the application. When a well is shown, the map shall be referred to the district immediately upon receipt for review and investigation. If upon review and investigation the district determines that the well or wells are to be sealed by the applicant pursuant to the ordinance, the determination shall be transmitted promptly to the applicant by the district as a requirement in writing.

## **§ 6. Eminent domain**

The district may exercise the right of eminent domain, either within or without said district, to take any property necessary to carry out any of the objects or purposes of this act. The district in exercising such power shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal or relocation of any structure, railways, mains, pipes, conduits, wires, cable, poles, of any public utility which is required to be moved to a new location. Nothing in this act contained shall be deemed to authorize said district, or any person or persons to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person, or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless compensation therefor be first provided in the manner provided by law.

Nothing in this act shall authorize the district to condemn any of the properties, structures or works, now owned or hereafter to be constructed or acquired, by any water conservation district within the County of Santa Clara.

### **§ 6.1. Water contamination hazard; public nuisance; standards; notice to property owner to abate; hearing; clearance letter or recordation; order to abate; abatement by district; payment of costs by owner; notice of lien; recordation; effect**

Any abandoned or unused water well endangering the public health and safety by creating a water contamination hazard is a public nuisance. The board shall, by ordinance, establish standards for what constitutes a water contamination hazard.

Whenever the district determines that a public nuisance, as so defined, exists, it shall, by certified mail, notify the then current record owner of the property to abate the public nuisance and that it is the intention of the district to record a notice of violation of the ordinance. The notice to the owner shall describe the violation and

specify a time, date, and place for a hearing, at which the owner may present evidence to the board that a public nuisance does not actually exist and that the notice should not be recorded. The notice to the owner shall state that, unless the public nuisance is abated within the time specified by the board following the hearing, the district may abate the public nuisance and the costs of the abatement will be assessed against the property. The meeting shall take place no sooner than 30 days and no later than 60 days from date of mailing. If, within 15 days of receipt of the notice, the owner of the real property fails to inform the district of his or her objection to recording the notice of violation, the board shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the district shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the board determines that a violation has in fact occurred, the board shall record the notice of violation with the county recorder. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in the property. The county recorder shall index the names of the fee owners in the general index.

If the board determines, at the conclusion of the hearing, that a public nuisance actually exists, the board shall order the property owner to abate the public nuisance within a specified time.

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

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

Notice of the lien, particularly identifying the property on which the nuisance was abated and the amount of the lien, and naming the owner of record of the property, shall be recorded by the district in the office of the Santa Clara County Recorder within one year after the first item of expenditures by the district or within 90 days after the completion of the work, whichever first occurs. Upon recordation of the notice of lien, the lien shall have the same force, effect, and priority as a judgment lien, except that it shall attach only to the property described in the notice, and shall continue for 10 years from the time of recording of the notice unless sooner released or otherwise discharged.

### **§ 7. Board of directors; continuance of service**

Except as otherwise provided in this act, the individuals who serve on the board of the Santa Clara Valley Water District on December 31, 2008, in accordance with the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951, as amended) shall continue to serve on the board of the district established by this act.

#### **§ 7.1. Directors; composition until noon on December 3, 2010**

Until noon on December 3, 2010, the board shall consist of the following directors:

**(a)** Two appointed directors who serve on the board of the Santa Clara Valley Water District on December 31, 2008, pursuant to Section 7.2 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Section 4 of Chapter 279 of the Statutes of 2006).

**(b)** Five directors who are elected pursuant to Section 7.1 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951, as amended by Chapter 906 of the Statutes of 1993).

#### **§ 7.2. Appointed directors; qualifications; terms**

[Section repealed 2010.]

**§ 7.3. Service of directors from the first and fourth supervisorial districts until noon on December 3, 2010**

Directors described in subdivision (b) of Section 7.1 from the first and fourth supervisorial districts who are elected in 2006 shall serve until noon on December 3, 2010.

**§ 7.4. Service of directors from the second, third, and fifth supervisorial districts until noon on December 7, 2012.**

Directors described in subdivision (b) of Section 7.1 from the second, third, and fifth supervisorial districts who are elected in 2008 shall serve until noon on December 7, 2012.

**§ 7.5. Service of specified directors until noon on December 3, 2010**

Directors described in subdivision (a) of Section 7.1 shall serve until noon on December 3, 2010.

**§ 7.6. Director composition as of December 3, 2010**

Notwithstanding any other provision of law, commencing at noon on December 3, 2010, the number of elected directors on the board shall be increased from five to seven and the number of appointed directors shall be reduced from two to zero.

**§ 7.7. Electoral districts**

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

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

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

**§ 7.8. First elections for first through seventh electoral districts; term of office; eligibility**

(a) The first elections for the first, fourth, sixth, and seventh electoral districts established pursuant to Section 7.7 shall be conducted at the November 2, 2010, statewide general election. The first elections for the second, third, and fifth electoral districts established pursuant to Section 7.7 shall be conducted at the November 6, 2012, statewide general election.

(b) Except as otherwise provided by this act, the term of office for each director elected pursuant to subdivision (a) shall be four years beginning at noon on the first Friday in December following his or her election and the director shall hold office until his or her successor qualifies and takes office.

(c) Elections for the electoral districts established pursuant to Section 7.7 shall be conducted in accordance with the Uniform District Election Law (Part 4 (commencing with *Section 10500*) of *Division 10 of the Elections Code*).

(d)

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

(2) A candidate for the board of directors shall be a resident in the electoral district for which he or she is a candidate.

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

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

#### **§ 7.9. Vacancies in office**

A vacancy in the office of any director shall be filled pursuant to *Section 1780 of the Government Code*. Any director appointed to fill a vacancy in either of the offices described in subdivision (a) of Section 7.1 shall represent the district at large and shall be a qualified elector residing in the County of Santa Clara.

#### **§ 7.10. Recall**

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

#### **§ 7.11. Review and adjustment of electoral district boundaries**

The board shall review the boundaries of the seven electoral districts established pursuant to Section 7.7 before November 1 of the year following the year in which each decennial census is taken. The boundaries shall be adjusted if needed in accordance with *Section 22000 of the Elections Code* so that each electoral district is as nearly equal in population to the others as possible. In making the adjustments, the board may give consideration to the factors described in subdivision (c) of Section 7.7.

#### **§ 8. Compensated employment; regulations governing lobbyists; prohibited contact; severance pay; public reporting; expense reimbursements**

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

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

(c)

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

## Santa Clara Valley Water District Act

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

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

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

(f)

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

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

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

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

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

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

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

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

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

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

### **§ 9. Ordinances and resolutions; rules and regulations; officers and employees**

The board shall have power to adopt resolutions for the district which shall be adopted, certified to, recorded, and published, in the same manner except as herein otherwise provided for, as are resolutions for the County of Santa Clara.

The board shall have the power to adopt ordinances for the district. All ordinances shall be enacted only by rollcall vote entered into the proceedings of the board. An ordinance shall be in full force and effect 30 days after adoption, and shall be published once in full in a newspaper of general circulation, printed, published, and circulated in the district within 10 days after adoption. It is a misdemeanor for any person to violate any district ordinance adopted pursuant to this section from and after the effective date of the ordinance. The violation

shall be punishable by a fine not exceeding five hundred dollars (\$500), or imprisonment in the county jail not to exceed 30 days, or both that fine and that imprisonment. Any violation or threatened violation may also be enjoined by civil action. The board shall have power to make and enforce all needful rules, regulations, standards, and procedures for the administration and government of the district, and to appoint and employ all needful agents, superintendents, engineers, attorneys, and employees to properly look after the performance of any work provided for in this act and to operate and maintain those works, and to perform all other acts necessary or proper to accomplish the purposes of this act.

In addition to the officers and employees herein otherwise prescribed, the board may in its discretion appoint a chairman, a clerk and such other officers and employees for the board or district as in its judgment may be deemed necessary, prescribe their duties and fix their compensation. Those officers and employees shall be employed, suspended, or their employment terminated in accordance with an ordinance setting forth rules, regulations, standards and procedures for appointment, suspension and termination of employment.

#### **§ 10. Engineers; plans for projects; reports; cost estimates; removal**

The board shall have jurisdiction and power to employ competent registered civil engineers to investigate and carefully devise a plan or plans for a project, and to obtain such information in regard thereto, as may be deemed necessary or useful for carrying out the purposes of this act; and the board may direct such engineer or engineers to make and file reports from time to time

1. A general description of the project, together with general plans, profiles, cross-sections, and general specifications relating thereto, on each project.

2. A general description of the lands, rights of way, easements and property proposed to be taken, acquired or injured in carrying out said project.

3. A map or maps which shall show the location and zones, as may be required, of each of said projects, and lands, rights of way, easements and property to be taken, acquired or injured in carrying out said project, and any other information in regard to the same that may be deemed necessary or useful.

4. An estimate of the cost of each project, including a statement of the portion, if any, of such cost theretofore advanced by the district for said project for which the district proposes to reimburse itself from the proceeds of sale of any bonds to be issued to pay for said project and an estimate of the cost of lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said project, and also of all incidental expenses likely to be incurred in connection therewith, including legal, clerical, engineering, superintendence, inspection, printing and advertising, and, if deemed advisable, a sum sufficient to pay interest on any bonds proposed to be issued during all or any part of the period of construction of said project and for not to exceed 12 months thereafter; and the total amount of bonds, if any, necessary to be issued to pay for said project.

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

Such engineer or engineers, employed by the board, shall have power and authority, subject to the control and direction of the board, to employ such engineers, surveyors, and others, as may be required for making all surveys or doing any other work necessary for the making of any such report.

The board may at any time remove any or all of the engineers or employees appointed or employed under this act, and may fill any vacancies occurring among them from any cause.

#### **§ 11. Selection of projects; determination of benefits**

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

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

**§ 12. Institution of zone or joint zone projects; hearing; determination; majority protest**

The board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to such zone or participating zones. For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of same to be borne by the particular zones or participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of said project. Notice of such hearing shall be given by publication once a week for two consecutive weeks prior to said hearing, the last publication of which notice must be at least seven (7) days before said hearing, in a newspaper of general circulation designated by the board, circulated in such zone or each of said participating zones, if there be such newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to said hearing in five public places designated by the board, in such zone or in each of said participating zones. Said notice must designate a public place in such zone or in each of said participating zones where a copy or copies of the map or maps of said joint project may be seen by any interested person; such map must be posted in each of said public places so designated in said notice at least two weeks prior to said hearing.

At the time and place fixed for the hearing, or at any time to which said hearing may be continued, the board shall consider all written and oral objections to the proposed project. Upon the conclusion of the hearing the board may abandon the proposed project or proceed with the same, unless prior to the conclusion of said hearing written protests against the proposed project signed by a majority in number of the registered voters residing within such zone or participating zones be filed with the board, in which event further proceedings relating to such project must be suspended for not less than six months following the date of the conclusion of said hearing, or said proceeding may be abandoned in the discretion of the board.

**§ 12.5. Advisory boards, committees or commissions**

The board may create by resolution such advisory boards, committees, or commissions for the district or any zone therein as in its judgment are required to serve the best interests of said district or zones, and may grant to them such duties as are consistent with the provisions of this act. The number of members of any such board, committee, or commission shall be not less than three (3) and shall be specified in the resolution. Members thereof shall serve at the pleasure of the board. The board shall create an advisory committee consisting of farmers to represent users of agricultural water.

**§ 13. Taxation**

The board shall have the power, in any year:

1. To levy ad valorem taxes or assessments in the district, to pay the general administrative costs and expenses, including maintenance and operation of established works, of the district, to carry out any of the objects or purposes of this act of common benefit to the district, and to provide a fund which may be used by the district to pay the costs and expenses of constructing or extending any or all works established within or on behalf of a zone or participating zones within the district; provided, that funds so used are replaced from funds derived from either of the following sources:

## Santa Clara Valley Water District Act

**(a)** Taxes or assessments levied pursuant to subdivision 2 or 3 within the zone or participating zones benefited by such construction in the year or years immediately following the use of those funds.

**(b)** Fees or charges collected under authority of Section 5, subdivision 9, or Section 26.

Taxes or assessments under paragraph (a) of subdivision 1 may be levied for purposes of this subdivision of this section by either of the following methods:

**(a)** By a levy or assessment upon all property within the district, including land, improvements thereon, and personal property.

**(b)** By a levy or assessment upon all real property within the district, including both land and improvements thereon.

**2.** To levy taxes or assessments in each or any of the zones and participating zones, to pay the cost of carrying out any of the objects or purposes of this act performed or to be performed on behalf of the respective zones, including the constructing, maintaining, operating, extending, repairing or otherwise improving any or all works or improvements established or to be established within or on behalf of the respective zones, according to the benefits derived or to be derived by the respective zones, by any of the following methods:

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

**(b)** By a levy or assessment upon all real property within a zone or participating zones, including both land and improvements thereon.

**(c)** By a levy or assessment upon land only within a zone or participating zones.

It is declared that for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

**3.** To levy assessments upon any property in each or any of said zones, according to the provisions and procedures of the Improvement Act of 1911, the Improvement Bond Act of 1915, the Municipal Improvement Act of 1913, or the Refunding Assessment Bond Act of 1935.

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

The taxes or assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from the district taxes or assessments, together with penalties thereon, shall be paid into the county treasury to the credit of the district, or the respective zones thereof, and the board may control and order the expenditure thereof for those purposes; provided, however, that no revenues, or portions thereof, derived in any of the several zones from the taxes or assessments levied under the provisions of subdivision 2 of this section shall be expended for constructing, maintaining, operating, extending, repairing or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside such zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, the zones will become, and shall be referred to as, participating zones.

**§ 13.2. Special taxes at minimum uniform rates according to land use category and size; exemption**

For the purposes of levying special taxes pursuant to paragraph (2) of Section 13, the district may impose special taxes in accordance with Article 3.5 (commencing with *Section 50075*) of *Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code* at minimum uniform rates according to land use category and size. The district may provide an exemption from these taxes for residential parcels owned and occupied by one or more taxpayers who are at least 65 years of age, or who qualify as totally disabled under the federal Social Security Act, if the total household income is less than an amount that is approved by the voters of the district.

**§ 14. Bonded indebtedness; procedure**

(1) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any project in any zone or zones, the board may by resolution, determine and declare the respective amounts of bonds to be issued to raise the amount of money necessary for each project and the denomination and the maximum rate of interest of said bonds. In determining each amount of bonds and the amount of money necessary for each project, the board may include therein the portion, if any, of the cost of such project theretofore advanced by the district for which the district proposes to reimburse itself from the proceeds of sale of any bonds to be issued to pay for said project and the cost of lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said project and also of all incidental expenses likely to be incurred in connection therewith, including legal, clerical, engineering, superintendence, inspection, printing and advertising, and, if deemed advisable, a sum sufficient to pay interest on any bonds proposed to be issued during all or any part of the period of construction of said project and for not to exceed 12 months thereafter. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the Office of the Recorder of Santa Clara County within five (5) days after its issuance. From and after said filing of said copy of said resolution the board shall be deemed vested with the authority to proceed with the bond election.

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

(3) Said board shall call such special bond election by ordinance and not otherwise and submit to the qualified electors of said zone or participating zones, the proposition of incurring a bonded debt in said zone or participating zones in the amount and for the purposes stated in said resolution and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief, general description of such objects and purposes, and refer to the recorded copy of such resolution adopted by said board, and on file for particulars; and said ordinances shall also state the estimated cost of the proposed project, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on said indebtedness, and shall fix the date on which such special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on such indebtedness shall not exceed eight percent (8%) per annum. For the purposes of said election, said board shall in said ordinance establish special bond election precincts within the boundaries of each zone and participating zone and may form election precincts by consolidating the precincts established for general elections in said district to a number not exceeding six general precincts for each such special bond election precinct, and shall designate a polling place and appoint one inspector, one judge, and one clerk for each such special bond election precincts.

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

Said board shall cause a map or maps to be prepared covering a general description of the project, which said map shall show the location of the proposed projects, and shall cause the said map to be posted in a

prominent place in the county courthouse for public inspection for at least thirty (30) days before the date fixed for such election.

Said ordinance calling for such special bond election shall, prior to the date set for such election, be published pursuant to *Section 6062 of the Government Code* in a newspaper of general circulation circulated in each zone and participating zone affected. The last publication of such ordinance must be at least fourteen (14) days before said election, and if there be no such newspaper, then such ordinance shall be posted in five public places designated by the board, in each zone and participating zone for at least thirty (30) days before the date fixed for such election. No other notice of such election need be given nor need polling place cards be issued.

Any defect or irregularity in the proceedings prior to the calling of such special bond election shall not affect the validity of the bonds authorized by said election. If at such election two-thirds (2/3) of the votes cast are in favor of incurring such bonded indebtedness, then bonds for such zone or participating zones for the amount stated in such proceedings shall be issued and sold as in this act provided.

#### **§ 15. Bonds; forms; terms; maturity; denominations; signatures**

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

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. The board may fix a date, not more than two years from the date of issuance, for the earliest maturity of each issue or series of bonds. The final maturity date shall not exceed 40 years from the time of incurring the indebtedness evidenced by each issue or series. The board may provide for call and redemption of all or any part of any issue or series of bonds before maturity at prices determined by the board. No bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect.

The bonds shall be issued in such denominations as the board may determine, except that bonds shall be issued in denominations of one thousand dollars (\$1,000) or more, and shall be payable on the days and at the place fixed in said bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of eight percent (8%) per annum, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the auditor of said district, and the seal of said district shall be affixed thereto by the clerk of the board. Either or both such signatures may be printed, engraved or lithographed. The interest coupons of said bonds shall be numbered consecutively and signed by the said auditor by his printed, engraved or lithographed signature. In case any such officer whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such bonds and coupons and signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery of the bonds.

#### **§ 16. Bonds; issuance and sale; proceeds; payments**

The board may issue and sell the bonds of such zones authorized as hereinbefore provided at not less than par value, and the proceeds of the sale of such bonds shall be placed in the treasury of the County of Santa Clara to the credit of said district and the respective participating zones thereof, for the uses and purposes of the zone, or zones voting said bonds; and the proper record of such transactions shall be placed upon the books of said county treasurer, and said respective zone funds shall be applied exclusively to the purposes and objects mentioned in the ordinance calling such special bond election as aforesaid, subject to the provi-

sions in this act contained. Payments from said zone funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon the funds of the County of Santa Clara.

**§ 17. Bonds; payment from tax or assessment revenue**

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

**§ 18. Bond tax**

The board shall levy a tax or assessment each year sufficient to pay the interest and such portion of the principal of said bonds as is due or to become due before the time for making the next general tax levy. Such taxes or assessments shall be levied and collected in the respective zones of issuance together with and not separately from taxes for county purposes, and when collected shall be paid into the county treasury of said Santa Clara County to the credit of the zone of payment, and be used for the payment of the principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer of said Santa Clara County in the manner provided by law for the payment of principal and interest on bonds of said county.

**§ 19. Taxation; law applicable**

The provisions of law of this State, prescribing the time and manner of levying, assessing, equalizing and collecting county property taxes, including the sale of property for delinquency, and the redemption from such sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof.

**§ 20. Adoption of budget**

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

(b) At the same time and place designated in the public notice, the board shall review its financial reserves, including the justification therefor, and its reserve management policy.

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

**§ 21. Bonds; legal investments**

The bonds of the district issued for any zone or zones thereof pursuant to this act, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts or municipalities

in the State of California, such money or funds may be invested in the said bonds of said district issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by any law now or hereafter enacted be used as security for the performance of any act, such bonds of said district may be so used.

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

**§ 22. Bonds; tax exemption; nature of district**

All bonds issued by said district under the provisions of this act shall be free and exempt from all taxation within the State of California. It is hereby declared that the district organized by this act is a reclamation district and an irrigation district within the meaning of Section 1 3/4 of Article XIII and Section 13 of Article XI of the Constitution of this State.

**§ 23. [Section repealed 1985.]**

**§ 24. Bonded improvements; conformity to report, plans, specifications, etc.**

Any improvement for which bonds are voted under the provisions of this act, shall be made in conformity with the report, plans, specifications and map theretofore adopted, as above specified, unless the doing of any of such work described in said report, shall be prohibited by law, or be rendered contrary to the best interests of the district by some change of conditions in relation thereto, in which event the board may order necessary changes made in such proposed work or improvements and may cause any plans and specifications to be made and adopted therefor.

**§ 25. Additional bonds**

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

**§ 25.1. Revenue bonds; issuance; law governing**

In addition to proceedings authorized under Sections 13, 14, 15, 16, 17, 18 and 24 of this act, whenever the board determines that it is in the public interest, it may borrow money to provide funds to pay the cost of any work or improvement in the district or in any zone or zones thereof by the issuance of revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with *Section 54300*) of *Part 1, Division 2, Title 5 of the Government Code*). If the work or improvement is determined by the board to be for a zone or zones comprising less than all the district, the election at which the proposition to issue such revenue bonds is submitted shall be held only in such zone or zones. Proceeds from the sale of any such revenue bonds shall be expended only in the zone or zones in which the proposition to issue such revenue bonds is approved. In the case of any conflict between the provisions of this act and the provisions of the Revenue Bond Law of 1941, the provisions of the Revenue Bond Law of 1941 shall control.

**§ 25.2. Revenue bonds; water and electric power facilities; special election**

(a) Notwithstanding any other provision of this act, the district may from time to time, subject to the provisions of this section, issue bonds in accordance with the Revenue Bond Law of 1941, (Chapter 6 (commencing with *Section 54300*) of *Part 1 of Division 2 of Title 5 of the Government Code*) for the purpose of financing the construction, reconstruction, replacement, acquisition or improvement of any facility or facilities necessary or convenient for the storage, treatment, including reclamation, transmission, or distribution of water for beneficial use within the district and for the purpose of generation or transmission of electric power; provided, that this section shall not apply to the acquisition of any facility or facilities already employed in any such public utility use, except where the acquisition of the facility or facilities is by mutual agreement between the district and the owner of the property.

(b) The provisions of *Sections 54380 to 54387, inclusive, of the Government Code* shall not apply to the issuance and sale of bonds pursuant to this section.

(c) The board shall not proceed under this section until it has submitted to the qualified voters of the district at a special election called by a resolution of the board a proposition as to whether the district may authorize and sell revenue bonds under this section. If a majority of the voters of the district voting on the proposition at the election vote in favor of the proposition, the board may proceed to issue and sell revenue bonds as provided by this section. If the proposition fails to carry at the election, the proposition shall not again be voted upon until at least six months have elapsed since the date of the last election at which the proposition was submitted.

(d) The resolution calling the election shall fix the date on which the election is to be held, the proposition to be submitted thereat, the manner of holding the election and of voting for or against the proposition, and shall state that in all other particulars the election shall be held and the votes canvassed as provided by law for the holding of elections within the district. The election may be held separately or may be consolidated with any other election authorized by law at which the voters of the district may vote. The resolution calling the election shall be published and no other notice of the election need be given.

**§ 25.5. Defeated bond proposal; waiting period before new election**

Should a proposition for issuing bonds for any zone or participating zones submitted at any election under this act fail to receive the requisite number of votes of the qualified electors voting at such election to incur the indebtedness for the purpose specified, the board shall not for six months after such election call or order another election in such zone or participating zone for incurring indebtedness and issuing bonds under the terms of this act for the same objects and purposes.

**§ 25.6. Indebtedness; limitation; purpose; short-term notes**

(a) The district may borrow money and incur indebtedness, not to exceed the amount of eight million dollars (\$8,000,000) as provided in this section by action of the board of directors and without the necessity of calling and holding an election in the district.

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

(c) Indebtedness incurred under this section shall be evidenced by short-term notes payable at stated times fixed by the board. The maturity of short-term notes shall be not later than five years from the date of issuance. Short-term notes shall bear interest at a rate not exceeding 10 percent per annum payable annually or semiannually. Short-term notes shall be general obligations of the district payable from revenues, charges, taxes, and assessments levied for purposes of the district.

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

**§ 26. Ground water charge; power to levy and collect**

The board shall have the power, in addition to the powers enumerated elsewhere in this act, to levy and collect a ground water charge for the production of water from the ground water supplies within a zone or zones of the district which will benefit from the recharge of underground water supplies or the distribution of imported water in such zone or zones.

**§ 26.1. Definitions relative to ground water charge**

As used in connection with the groundwater charge, the following words shall mean:

"Person," "owner," or "operator" means public agencies, federal, state, and local, private corporations, firms, partnerships, limited liability companies, individuals or groups of individuals, whether legally organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

"Groundwater" means nonsaline water beneath the natural surface of the ground, whether or not flowing through known and definite channels; "nonsaline water" means water which has less than 1,000 parts of chlorides to 1,000,000 parts of water, both quantities measured by weight.

"Production" or "producing" means the extraction or extracting of groundwater, by pumping or any other method, from shafts, tunnels, wells (including, but not limited to, abandoned oil wells), excavations or other sources of groundwater, for domestic, municipal, irrigation, industrial, or other beneficial use, except that the terms do not mean or include the extraction of groundwater produced in the construction or reconstruction of a well, or water incidentally produced with oil or gas in the production thereof, or water incidentally produced in a bona fide mining or excavating operation or water incidentally produced in the bona fide construction of a tunnel, unless the groundwater so extracted shall be used or sold by the producer for domestic, municipal, irrigation, industrial, or other beneficial purpose.

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

"Water production statement" means the certified statement filed by the owner or operator of a water-producing facility with the district of the production of groundwater of the facility in a specified period.

"Water year" means July 1st of one calendar year to June 30th of the following calendar year.

"Agricultural water" means water primarily used in the commercial production of agricultural crops or livestock.

**§ 26.2. Ground water charge zones; establishment; amendment**

Prior to the establishment of any ground water charge, the board shall establish a zone or zones within the district within which the ground water charge will be effective. Said zone or zones shall be established and may be amended to the extent and in the manner prescribed in Section 3 of this act.

**§ 26.3. Purpose of ground water charges; use of revenues**

Ground water charges levied pursuant to this act are declared to be in furtherance of district activities in the protection and augmentation of the water supplies for users within a zone or zones of the district which are necessary for the public health, welfare and safety of the people of this State. The ground water charges are authorized to be levied upon the production of ground water from all water-producing facilities, whether public or private, within said zone or zones of the district for the benefit of all who rely directly or indirectly upon the ground water supplies of such zone or zones and water imported into such zone or zones.

The proceeds of ground water charges levied and collected upon the production of water from ground water supplies within such zone or zones of the district are authorized and shall be used exclusively by the board for the following purposes:

1. To pay the costs of constructing, maintaining and operating facilities which will import water into the district which will benefit such zone or zones, including payments made under any contract between the district and the State of California, the United States of America, or any public, private or municipal utility.
2. To pay the costs of purchasing water for importation into such zone or zones, including payments made under contract to the State of California, the United States of America, or any public, private or municipal utility.
3. To pay the costs of constructing, maintaining and operating facilities which will conserve or distribute water within such zone or zones, including facilities for ground water recharge, surface distribution, and the purification and treatment of such water.
4. To pay the principal or interest of any bonded indebtedness or other obligations incurred by the district on behalf of such zone or zones for any of the purposes set forth in paragraphs 1, 2 and 3 of this section.

The district may apply to any one or more of the purposes set forth in paragraphs 1, 2, 3 and 4 of this section any or all revenues received by the district from water sale contracts executed by the district pursuant to this act.

**§ 26.4. Registration of water-producing facilities; violation; penalty**

Within six months after the date of establishing any such zone or zones, all water-producing facilities located within the boundaries of such zone or zones shall be registered with the district and, if required by the board, measured with a water-measuring device satisfactory to the district installed by the district or at the district's option by the operator thereof. Any new water-producing facility, constructed or reestablished, or any abandoned water-producing facility which is reactivated, after such date, shall be registered with the district and, if required by the board, measured with a water-measuring device satisfactory to the district within 30 days after the completion or reestablishment, or reactivation thereof.

Failure to register any water-producing facility, as required by this act, is a misdemeanor punishable by a fine of not to exceed five hundred dollars (\$500), or imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment.

In addition to other information which the district may determine is necessary and may require in the registration form provided, there shall also be given information as to the owner or owners of the land upon which each water-producing facility is located, a general description and location of each water-producing facility, the name and address of the person charged with the operation of each water-producing facility, and the name or names and addresses of all persons owning or claiming to own an interest in the water-producing facility.

**§ 26.5. Annual report on district's activities; contents**

(a) The district shall annually prepare a written report upon the district's activities in the protection and augmentation of the water supplies of the district. The report shall include, among other information the board may order, a financial analysis of the district's water utility system; information as to the present and future water requirements of the district, the water supply available to the district, and future capital improvement and maintenance and operating requirements; a method of financing those requirements; a recommendation as to whether or not a groundwater charge should be levied in any zone or zones of the district during the ensuing water year and, if any groundwater charge is recommended, a proposal of a rate or rates per acre-foot for agricultural water and a rate or rates per acre-foot for all water other than agricultural water for the zone or zones, which rate or rates, as applied to operators who produce groundwater above a specified annual amount, may be subject to prescribed, fixed, and uniform increases in proportion to increases by that operator in groundwater production over the production of that operator for a prior base period to be specified by the board.

(b) The report shall not contain a recommendation of any increases in proportion to increased production in a zone unless based upon an analysis showing the cause of the reduction in the groundwater levels of the zone requiring the increases, with attention given to the effect of extractions of pumpers outside of, as well as within the zone, and with an evaluation of alternative measures which may feasibly be taken within the entire affected groundwater basin and of any alternative supplies of water available for that zone, including the availability of treated water supplied by the district or treated groundwaters or groundwaters extracted in a cleanup operation and available to the district for reuse. The report shall be consistent with any conservation and reuse plan approved by the State Water Resources Control Board. The report shall also include all of the following:

- (1) The amount of groundwater produced in the proposed zone and alternative water sources.
- (2) The estimated costs of recharging each zone or zones.
- (3) The estimated costs of mitigating any effects of pumping.
- (4) Information specifying the benefits that have been received and will be received within the zone or zones where a groundwater charge has been levied and collected, or is recommended to be levied and collected.

**§ 26.6. Hearing on report; notice**

On or before the first Tuesday in April of each year the report shall be delivered to the clerk of the district board in writing. The clerk shall publish, pursuant to *Section 6061 of the Government Code*, a notice of the receipt of the report and of the public hearing to be held on or before the fourth Tuesday in April in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding the report shall be held. The notice, among other information which the district may provide, shall contain an invitation to all operators of water-producing facilities within the district and to any person interested in the district's activities in the protection and augmentation of the water supplies of the district to call at the offices of the district to examine the report. There shall be held on or before the fourth Tuesday of April of each year, in the chambers of the board, a public hearing at which time any operator of a water-producing facility within the district, or any person interested in the district's activities in the protection and augmentation of the water supplies of the district, may in person, or by representative, appear and submit evidence concerning the subject of the written report.

**§ 26.7. Levy and collection of ground water charges; rates; new or adjusted charges; reports; notice; hearing; errors**

**(a)**

**(1)** Prior to the end of the water year in which the hearing is held, and based upon the findings and determinations from the hearing, the board shall determine whether or not a groundwater charge should be levied in any zone or zones.

**(2)** If the board determines that a groundwater charge should be levied, it shall levy, assess, and affix the charge or charges against all persons operating groundwater-producing facilities within the zone or zones during the ensuing water year.

**(3)**

**(A)** The charge shall be computed at a fixed and uniform rate or rates per acre-foot for agricultural water, and at a fixed and uniform rate or rates per acre-foot for all water other than agricultural water.

**(B)** Different rates may be established in different zones, except that in each zone the rate or rates for agricultural water shall be fixed and uniform.

**(C)** The rate or rates, as applied to operators who produce groundwater above a specified annual amount, may, except in the case of any person extracting groundwater in compliance with a government-ordered program of cleanup of hazardous waste contamination, be subject to prescribed, fixed, and uniform increases in proportion to increases by that operator in groundwater production over the production of that operator for a prior base period to be specified by the board, upon a finding by the board that conditions of drought and water shortage require the increases. The increases shall be related directly to the reduction in the affected zone groundwater levels in the same base period.

**(D)** The rates shall be established each year in accordance with a budget for that year approved by the board pursuant to this act, or amendments or adjustments to that budget, and shall be fixed and uniform rates for agricultural water and for all water other than agricultural water, respectively, except that each rate for agricultural water shall not exceed one-fourth of the rate for all water other than agricultural water.

**(b)**

**(1)** The board may also impose or adjust any groundwater charge, and the rate of any charge, on or before January 1 of each water year whenever the board determines that the imposition or adjustment of the charge is necessary.

**(2)** The board shall prepare a supplemental report to the annual report prepared pursuant to Section 26.5, explaining the reasons for the imposition or adjustment of the charge. The board shall file the supplemental report with the clerk of the board at least 45 days before the date the new or adjusted charge is proposed to take effect.

**(3)**

**(A)** The clerk shall publish in a newspaper of general circulation published within the district, pursuant to *Section 6061 of the Government Code*, a notice of the receipt of the supplemental report and a hearing to be held on the proposed imposition or adjustment of the groundwater charge at least 31 days before the date on which the new or adjusted charge is proposed to take effect and at least 10 days before the date of the hearing.

**(B)** The notice shall invite any operator of a water-producing facility within the district and other interested parties to examine the supplemental report prepared pursuant to paragraph (2) at the district office.

**(4)**

**(A)** A public hearing shall be held at least 21 days before the date on which the new or adjusted groundwater charge is proposed to take effect in the chambers of the board.

**(B)** Any operator of a water-producing facility within the district may, in person or by means of a representative, present evidence at the hearing concerning the imposition or adjustment of the groundwater charge.

(c) Any groundwater charge levied pursuant to this section shall be in addition to any general tax or assessment levied within the district or any zone or zones thereof.

(d) Clerical errors occurring or appearing in the name of any person or in the description of the water-producing facility from which the production of water is otherwise properly charged, or in the making or extension of any charge upon the records that do not affect the substantial rights of the assessee or assesses, shall not invalidate the groundwater charge.

#### **§ 26.8. Notice to owners or operators**

The district, after the levying of the ground water charge, shall give notice thereof to each owner or operator of each water-producing facility in the zone or zones as disclosed by the records of said district, which notice shall state the rate for each class of water of the ground water charge for each acre-foot of water to be produced during the ensuing water year. Said notice may be sent by postal card or by other first-class mail and with postage prepaid by the district.

#### **§ 26.9. Water production statement; computation of charges; interest; penalties, and administrative charges**

(a) After the establishment of a zone in which a groundwater charge may be levied, each owner or operator of a water-producing facility within the zone, until the time that the water-producing facility has been permanently abandoned, shall file with the district, on or before the 30th day following the end of collection periods established by the board, a water production statement setting forth the total production in acre-feet of water for the preceding collection period, a general description or number locating each water-producing facility, the method or basis of the computation of the water production, and the amount of the groundwater charge based on the computation. The collection periods may be established at intervals of not more than one year or less than one month. If no water has been produced from the water-producing facility during a preceding collection period, this statement shall be filed as provided for in this section, setting forth that no water has been produced during the applicable period. The statement shall be verified by a written declaration under penalty of perjury.

(b) The groundwater charge is payable to the district on or before the last date upon which the water production statements shall be filed, and is computed by multiplying the production in acre-feet of water for each classification as disclosed in the statement by the groundwater charge for each classification of water. The owner or operator of a water-producing facility that is being permanently abandoned shall give written notice of the abandonment to the district. If any owner or operator of a water-producing facility fails to pay the groundwater charge when due, the district shall charge interest at the rate of 1 percent each month on the delinquent amount of the groundwater charge.

(c) If any owner or operator of a water-producing facility fails to register each water-producing facility, or fails to file the water production statements as required by this act, the district shall, in addition to charging interest, assess a penalty charge against the owner or operator in an amount of 10 percent of the amount found by the district to be due. The board may adopt regulations to provide that in excusable or justifiable circumstances the penalty may be reduced or waived.

(d) If any owner or operator of a water-producing facility fails to file a water production statement as required by this act, the district shall, in addition to charging interest and assessing a penalty charge, assess an administrative charge to recover the costs of collection. The board may adopt regulations to provide that in excusable or justifiable circumstances the administrative charge may be reduced or waived.

(e) If a water-measuring device is permanently attached to a water-producing facility, the record of production as disclosed by the water-measuring device shall be presumed to be accurate and shall be used as the basis for computing the water production of the water-producing facility in completing the water production statement, unless it can be shown that the water-measuring device is not measuring accurately.

(f) If a water-measuring device is not permanently attached to a water-producing facility, the board may establish a method or methods to be used in computing the amount of water produced from the water-producing facilities. The methods may be based upon any or all of the following criteria: the minimum charge sufficient to cover administrative costs of collection, size of water-producing facility discharge opening, area served by the water-producing facility, number of persons served by the water-producing facility, use of land served by the water-producing facility, crops grown on land served by the water-producing facility, or any other criteria that may be used to determine with reasonable accuracy the amount of water produced from that water-producing facility. The district may levy an annual charge upon a water-producing facility for which no production has been recorded but that has not been permanently abandoned if that charge does not exceed the annual cost to the district of maintaining and administering the registration of that facility.

**§ 26.10. Amendment of statement; correction of records**

Upon good cause shown, an amended statement of water production may be filed or a correction of the records may be made at any time within six months of filing the water production statement; provided that if pursuant to Section 26.13, the owner or operator has been notified of a determination by the district that the production of water from the water-producing facility is in excess of that disclosed by the sworn statement covering such water-producing facility, and such owner or operator fails to protest such determination in the manner and in the time set forth in Section 26.13, the owner or operator shall be precluded from later filing an amended water production statement for that period for such water-producing facility.

**§ 26.11. Record of water production and ground water charges**

The district shall prepare each year a record called "The Record of Water Production and Ground Water Charges" in which shall be entered a general description of the property upon which each water-producing facility is located, an identifying number or code which is assigned to such facility, the annual water production for each class of water produced from each water-producing facility, and the ground water charge for each class of water.

**§ 26.12. Injunctive relief; grounds; process; procedure**

The superior court of the county in which the district lies may issue a temporary restraining order upon the filing by the district with said court of a petition or complaint setting forth that the person named therein as defendant is the operator of a water-producing facility which has not been registered with the district, or that such defendant is delinquent in the payment of a ground water charge. Such temporary restraining order shall be returnable to said court on or before ten days after its issuance.

The court may issue and grant an injunction restraining and prohibiting the named defendant from the operation of any water-producing facility when it is established at the hearing that the defendant has failed to register such water-producing facility with the district, or that the defendant is delinquent in payment of ground water charges thereon. Such court may provide that the injunction so made and issued shall be stayed for a period not to exceed ten days to permit the defendant to register the water-producing facility or to pay the delinquent ground water charge.

Service of process is completed by posting a copy of the summons and complaint upon the water-producing facility or the parcel of land upon which it is located and by personal service upon the named defendant.

The right to proceed for injunctive relief granted herein is an additional right to those which may be provided elsewhere in this act or otherwise allowed by law. The procedure provided in Chapter 3 (commencing with *Section 525*), *Title 7, Part 2, of the Code of Civil Procedure*, regarding injunctions shall be followed except

insofar as it may herein be otherwise provided. The district shall not be required to provide an undertaking or bond as a condition to granting injunctive relief.

**§ 26.13. Excess water production; investigation and report; fixing amount of production; protest**

If the district has probable cause to believe that the production of water from any water-producing facility is in excess of that disclosed by the sworn statements covering such water-producing facility, or if no statements are filed covering any water-producing facility, the district may cause an investigation and report to be made concerning the production of water from each such water-producing facility. The district may fix the amount of water production from any such water-producing facility at an amount not to exceed the maximum production capacity of such water-producing facility; provided, however, where a water-measuring device is permanently attached thereto, the record of production, as disclosed by such water-measuring device, shall be presumed to be accurate.

After such determination has been made by the district, a written notice thereof shall be mailed to the person operating such water-producing facilities at the address shown by the district's records. Any such determination made by the district shall be conclusive on all persons having an interest in such water-producing facility, and the groundwater charge, interest and penalties thereon, shall be paid forthwith, unless such person files with the board within 15 days after the mailing of such notice, a written protest setting forth the ground or grounds for protesting the amount of production so fixed. Upon the filing of such protest, the board thereafter shall hold a hearing at which time the total amount of the water production and the groundwater charge thereon shall be determined, which shall be conclusive if based upon substantial evidence. If the water production statement was filed and the amount disclosed thereon was paid within the time required by this act, and the board finds that the failure to report the amount of water actually produced resulted from excusable or justifiable circumstances, the board may waive the charge of interest on the amount found to be due. A notice of such hearing shall be mailed to the protestant at least 10 days before the date fixed for the hearing. Notice of the determination by the board shall be mailed to each protestant, who shall have 20 days from the date of mailing to pay the groundwater charge, interest or penalties provided by the provisions of this act.

Notice as required in this section shall be given by deposit thereof in any postal facility regularly maintained by the government of the United States in a sealed envelope with postage paid, addressed to the person on whom it is served at the name and address disclosed by the records of the district. The service is complete at the time of deposit.

**§ 26.14. Collection of delinquent charges; interest and penalties; attachment**

The district may bring a suit in the court having jurisdiction against any operator of a water-producing facility within the district for the collection of any delinquent ground water charge. The court having jurisdiction of said suit, may, in addition to allowing recovery of costs to said district as allowed by law, fix and allow as part of the judgment interest and penalties as provided in Section 26.9. Should the district, as a provisional remedy in bringing such suit, seek an attachment against the property of any named defendant therein, the district shall not be required to provide a bond or undertaking as is otherwise provided for in the Code of Civil Procedure of the State of California in Chapter 4 (commencing with Section 537), Title 7, Part 2, thereof.

**§ 26.15. Production from unregistered facilities; violations; penalties**

It shall be unlawful to produce water from any water-producing facility required to be registered pursuant to the terms of this act unless such water-producing facility has been registered with the district within the time required by the provisions of this act and, if required by the board, has a water-measuring device affixed thereto capable of registering the accumulated amount of water produced therefrom.

Violation of this provision shall be punishable by a fine not to exceed five hundred dollars (\$500), or imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment. Each day of operation in violation hereof shall constitute a separate offense.

**§ 26.16. Interfering or tampering with measuring device; filing fraudulent statements**

Any person who injures, alters, removes, resets, adjusts, manipulates, obstructs or in any manner interferes or tampers with or procures or causes or directs any person to injure, alter, remove, reset, adjust, manipulate, obstruct or in any manner interfere or tamper with any water-measuring device affixed to any water-producing facility as required by this act, so as to cause said water-measuring device to improperly or inaccurately measure and record said water production, or any person who willfully does not file with the district a water production statement as prescribed and within the time required by this act, or any person who willfully removes or breaks a seal attached to an abandoned water-producing facility, or any person who with intent to evade any provision or requirement of this act files with the district any false or fraudulent water production statement is guilty of a misdemeanor and is punishable by a fine not to exceed five hundred dollars (\$500), or imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment.

**§ 26.17. Enforcement powers**

In implementing the enforcement of the provisions of this act relating to ground water charges, the district shall have the power, in addition to the powers enumerated elsewhere in this act:

1. To install and maintain water-measuring devices, and other devices which will aid in determining accurate water production, on water-producing facilities not owned by the district.
2. To affix seals to water-producing facilities which the owner or operator thereof has declared to be abandoned, or are in fact permanently abandoned.
3. To enter on to any land for the purposes enumerated in this section and for the purpose of making investigations relating to water production.

**§ 27. Repeal or amendments; effect upon obligations**

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

**§ 28. Right of way over public lands**

There is hereby granted to the district the right-of-way for the location, construction and maintenance of flood control channels, ditches, waterways, conduits, canals, storm dikes, embankments, and protective works in, over and across public land of the State of California, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of such works and adjuncts or for the protection thereof. Whenever any selection of a right-of-way for such works or adjuncts thereto is made by the district the board thereof must transmit to the State Lands Commission, the Controller of the State and the recorder of the county in which the selected lands are situated, a plat of the lands so selected, giving the extent thereof and the uses for which the same is claimed or desired, duly verified to be correct. If the State Lands Commission shall approve the selections so made it shall endorse its approval upon the plat and issue to the district a permit to use such right-of-way and lands.

**§ 29. [Section repealed 1976.]**

**§ 30. Claims for money or damages; law governing; other claims; procedure**

Claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with *Section 940*) of *Division 3.6 of Title 1 of the Government Code*, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county.

**§ 31. Property**

The legal title to all property, except shares of stock in mutual water companies or corporations, as provided in *Section 17 of Article XVI of the California Constitution*, acquired under this act shall immediately and by operation of law vest in the district, and shall be held by the district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board may hold, use, acquire, manage, occupy, and possess the property, as herein provided; and the board may determine, by resolution duly entered in their minutes that any real property, or interest therein, held by the district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease, or otherwise dispose of the property pursuant to this section.

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

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

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

In all other cases, the board shall be governed in the sale, lease, or other disposition of real property by the requirements of law governing that action by counties; provided, however, that notice of the board's intended action shall be as prescribed in *Section 25363 of the Government Code*.

The board may by resolution prescribe a procedure for the leasing of real property owned by the district alternative to the requirements of law governing counties.

The board may by a majority vote sell, lease, or otherwise transfer to the state, the County of Santa Clara, or to any city, school district, or other special district within the Santa Clara Valley Water District, or exchange with the public entities, any real or personal property or interest therein belonging to the district upon the terms and conditions that are agreed upon.

The board shall establish regulations for the trade in, survey, sale, or other disposition of personal property held by the district and no longer necessary to be retained for the uses and purposes thereof; provided, however, that any sale of personal property having a sale value in excess of that value stated from time to time by *Section 1041.6 of Article 2 of Subchapter 3 of Chapter 2 of Division 2 of the California Code of Regulations* as a definition of "fixed assets," or any lower value as may be determined by the board, shall be made upon

# Santa Clara Valley Water District Act

public bid preceded by notice of the board's intended action given as prescribed in *Section 25363 of the Government Code*.

## **§ 32. Action to test validity of district**

The district formed under this act in order to determine the legality of its existence, or any contract entered into by the district, may institute a proceeding therefor in the superior court of this State, in and for the County of Santa Clara, by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal flood control and water conservation and development district formed under the provisions of this act, or setting forth the name of the district, the parties to and nature of the contract, a copy of the contract, and a prayer that it be adjudged a legal contract. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in a newspaper of general circulation published in said county. The State of California shall be a defendant in such action, and consent therefor is given. Service of summons therein shall be made on the Attorney General. The Attorney General shall appear in such action on behalf of the State in the same manner as with appearances in civil actions. Within thirty (30) days after proof of publication of said summons shall have been filed in said proceeding, the State, any property owner or resident in said district, or any person interested may appear as a defendant in said action by serving and filing an answer to said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district, or the contract, and shall be served upon the attorney for said district before being filed in such proceeding. Such proceeding is hereby declared to be a proceeding in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever, including the district and the State of California.

## **§ 33. Qualification of officers and employees; oath; compensation of directors**

Each person elected or appointed to the office of director shall, within 10 days after receiving his or her certificate of election, or notice of appointment, qualify as such by taking and subscribing to an official oath. The director shall file his or her official oath with the clerk of the board.

The board may authorize each director to receive compensation not exceeding one hundred dollars (\$100) per day for each day's attendance at meetings of the board, or committees thereof, or for each day's service rendered as a director by request of the board. No director may receive total compensation, other than for actual and necessary expenses, in excess of six hundred dollars (\$600) per month.

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

## **§ 34. Liberal construction**

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

### **§ 34.5. Exemption from special assessment investigation, limitation and majority protest act**

The provisions and procedures of law available under this act are not subject to "The Special Assessment Investigation, Limitation and Majority Protest Act of 1931."

**§ 35. Partial invalidity**

If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby.