

CHAPTER 96

EL DORADO COUNTY WATER AGENCY ACT

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An act to create the El Dorado County Water Agency, prescribing its powers and duties, providing for its organization, operation, and management, and authorizing the acquisition of property and works to carry out the purposes of the district, authorizing the incurrence of indebtedness, providing for issuance of bonds, providing for the levy and collection of taxes for the payment of such indebtedness, providing for the issuing of bonds payable solely from revenues of the district, providing for the levy and collection of taxes for the payment of general district expenses and for co-operation and contracts with any entity. (Stats. 1959, c. 2139, p. 5084.)

Cross References

Procedure for letting contracts, see Public Contract Code § 21461.

§ 96-1. Short title

Section 1. This act may be designated and referred to as the El Dorado County Water Agency Act, and any reference thereto by such designation shall be sufficient for all purposes.

(Stats. 1959, c. 2139, p. 5084, § 1.)

§ 96-2. Creation; name; boundaries

Sec. 2. A district is hereby created to be called the El Dorado County Water Agency. Said district shall consist of all the territory lying within the exterior boundaries of the County of El Dorado.

(Stats. 1959, c. 2139, p. 5085, § 2.)

Cross References

Boundaries of El Dorado County, see Government Code § 23109.

Library References

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

§ 96-3. Definitions

Sec. 3. As used in this act, the following words shall have the following respective meanings unless the context indicates otherwise:

- (a) "Agency" is the El Dorado County Water Agency.

- (b) "County" is the County of El Dorado of the State of California.
 - (c) "United States" is the United States of America including any one or more of the bureaus, commissions, divisions, departments, boards, agencies, and officers of the United States of America.
 - (d) "State" means the State of California including any one or more of the bureaus, commissions, divisions, departments, boards, agencies, and officers of the State of California.
 - (e) "Work" or "works" includes dams and dam sites, reservoirs and reservoir sites, and all conduits and other facilities useful in the control, conservation, diversion and transmission of water, power generation and transmission facilities, and all land, property, franchises, easements, rights of way and privileges necessary or useful to operate or maintain any of the foregoing.
 - (f) "District" means any of the following lying within or partially within the agency; irrigation districts, county water districts, water conservation districts, water districts, municipalities, town, flood control districts, and any other districts or political subdivisions of the State empowered by law to appropriate water and deliver water to water users.
 - (g) "Member unit" means any district which enters into a contract with the agency on a particular project for
 - (i) The repayment in whole or in part to the agency or any other person, corporation, public district, State of California or any political subdivision thereof, or the United States, of any or all the construction costs of any works constructed by or on behalf of the agency of such district, or for
 - (ii) The underwriting in whole or in part of any or all of such construction costs, or for
 - (iii) The repayment in whole or in part to the agency or any other person, corporation, public district, State of California or any political subdivision thereof, or the United States of any or all of the cost of furnishing water or a water supply to the agency or such district or the underwriting in whole or in part of such cost, or for
 - (iv) The payment in whole or in part for water to be furnished or sold to such district by the agency or the United States.
 - (h) "Elector" or "qualified elector" or "voter" or "qualified voter" means any elector of the county qualified under the laws of the State of California to vote in the county at general elections.
 - (i) "May" is permissive and "shall" is mandatory.
 - (j) "Board" means the board of directors of the agency.
 - (k) "Project" means any undertaking by the agency which involves any expenditure of funds by any district except the agency.
- (Stats.1959, c. 2139, p. 5085, § 3.)

Cross References

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

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§ 96-4. Body politic and corporate; general powers; exercise of powers

Sec. 4. The El Dorado County Water Agency is hereby declared to be and is a body politic and corporate, and as such shall have, among others, the powers enumerated in this act and such other powers as the law may provide. The powers of the agency shall, except as otherwise provided, be exercised by the board of directors thereof.

(Stats.1959, c. 2139, p. 5086, § 4.)

§ 96-5. Perpetual succession

Sec. 5. The agency shall have perpetual succession.

(Stats.1959, c. 2139, p. 5086, § 5.)

§ 96-6. Seal

Sec. 6. The agency shall have the power to adopt a seal and alter it at its pleasure.

(Stats.1959, c. 2139, p. 5086, § 6.)

§ 96-7. Actions

Sec. 7. The agency shall have the power to sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts, commissions, board and tribunals of competent jurisdiction.

(Stats.1959, c. 2139, p. 5086, § 7.)

Library References

Sovereign immunity study. Cal.Law Revision
Comm. (1963) Vol. 5, p. 29.

§ 96-8. Eminent domain

Sec. 8. The agency shall have the power of eminent domain to acquire within the agency any property necessary for carrying out the powers and purposes of the agency, except that the agency shall not have the power to acquire by condemnation publicly owned property held or used for the development, storage or distribution of water for public use. The agency in exercising such power shall, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal and relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles of any public utility which require removal only, or removal and reinstallation in a new location.

(Stats.1959, c. 2139, p. 5086, § 8. Amended by Stats.1975, c. 581, p. 1166, § 4.)

Law Revision Commission Comment

1975 Amendment

The deleted portions of Section 8 [Water C.App. § 96-8] are superseded by provisions of the Eminent Domain Law. See Code Civ.Proc. §§ 1230.020 (uniform procedure), 1240.610 et seq. (more necessary public use), 1240.010 (declaration that a use is a public use is unnecessary), 1240.110 (right to take

any property or any right or interest in property), 1250.210 (identification of plaintiff). See also Code Civ.Proc. §§ 1240.040 and 1245.210 et seq. (resolution of necessity), 1235.170 ("property" defined).

Historical and Statutory Notes

Operative effect of 1975 amendment, see note under § 102-7.

Cross References

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

Library References

Eminent Domain ⇐9.

WESTLAW Topic No. 148.

C.J.S. Eminent Domain § 24.

Recommendations relating to condemnation law and procedure in special districts. 12

Cal.L.Rev.Comm. Reports 1101 (1974).

Sovereign immunity study. Cal.Law Revision Comm. (1963) Vol. 5, pp. 81, 83.

§ 96-9. Property acquisition; use; disposal

Sec. 9. The agency shall have the power to take absolutely or on condition, by grant, purchase, gift, devise, or lease, with or without the privilege of purchasing, or otherwise, real and personal property of any kind, or any interest in real or personal property, within or without the agency, necessary to the full exercise of its powers, and to hold, use, enjoy, and to lease or dispose of the same subject to the limitations set forth in Section 42.

(Stats.1959, c. 2139, p. 5087, § 9.)

§ 96-10. Contracts; employment of labor; necessary acts; construction

Sec. 10. The agency shall have the power to make contracts, employ labor and to do all acts necessary for the full exercise of its purposes and powers. The board may cause construction or other work to be performed or carried out by contracts or by the agency under its own superintendence.

(Stats.1959, c. 2139, p. 5087, § 10.)

§ 96-11. Availability of water

Sec. 11. The agency shall have the power as limited in this act to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the agency, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses and purposes.

(Stats.1959, c. 2139, p. 5087, § 11.)

Cross References

Appropriation of water, see Water Code § 1200 et seq.

Beneficial use of water, see Const. Art. 14, § 3; Water Code §§ 100, 101, 1240.

Library References

Waters and Water Courses ⇨190.
WESTLAW Topic No. 405.
C.J.S. Waters § 228.

§ 96-12. Power; development; sale

Sec. 12. The agency shall have the power to construct, operate and maintain works to develop hydroelectric energy as a means of assisting in financing the construction, operation and maintenance of its projects for the control, conservation, diversion and transmission of water and to enter into contracts for the sale of such energy for a term not to exceed 50 years. Such energy may be marketed only at wholesale rates to any public agency or private entity engaged in the sale or use of electric energy, or the Federal or State Government.

(Stats.1959, c. 2139, p. 5087, § 12.)

§ 96-13. Flood control; water conservation

Sec. 13. The agency shall have the power to control the flood and storm waters of the agency and the flood and storm waters of streams that have their sources outside of the agency, which streams and floodwaters flow into the agency, and to conserve such waters for beneficial and useful purposes of said agency by spreading, storing, retaining and causing to percolate into the soil within or without said agency, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters the watercourses, watersheds, public highways, life and property in said agency, and the watercourses outside of the agency of streams flowing into the agency.

(Stats.1959, c. 2139, p. 5087, § 13.)

Cross References

Appropriation of water, see Water Code § 1200 et seq.

Library References

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

§ 96-14. Storage of water; conservation and reclamation; appropriation; actions; prevention of unlawful exportation; contamination or pollution

Sec. 14. The agency shall have the power to store water in surface or underground reservoirs within or outside of the agency for the common benefit of the agency; to conserve and reclaim water for present and future use within the agency; to appropriate and acquire water and water rights, and import water into the agency and to conserve and utilize, within or outside of the agency, water for any purpose useful to the agency; to commence, maintain, intervene in, defend or compromise, in the name of the agency in 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 without the agency, used or useful for any purpose of the agency or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the agency or of common benefit to the lands within the agency or to its inhabitants; to prevent unlawful exportation of water from said agency; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used in said agency, and to commence, maintain and defend actions and proceedings to prevent any such interference with such waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the agency; except that the agency shall have no power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interests of the agency.

(Stats.1959, c. 2139, p. 5087, § 14.)

Library References

Waters and Water Courses ⇨222, 232.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 316, 339 et seq.

§ 96-15. Acquisition of works, waters and water rights

Sec. 15. The agency shall have the power within or outside the agency to construct, purchase, lease, or otherwise acquire works and to purchase, lease, appropriate or otherwise acquire water and water rights, useful or necessary to make use of water for any purposes authorized by this act.

(Stats.1959, c. 2139, p. 5088, § 15.)

§ 96-16. Operation, maintenance, etc. of works

Sec. 16. The agency shall have the power to operate, repair, improve, maintain, renew, replace and extend all works and property of the agency.

(Stats.1959, c. 2139, p. 5088, § 16.)

§ 96-17. Investigations

Sec. 17. The agency shall have the power 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 without said agency relating to watercourses or streams flowing in or into said agency. The agency may cooperate with any district in carrying out the powers granted by this section.

(Stats.1959, c. 2139, p. 5088, § 17.)

Library References

Administrative Law and Procedure ¶343.
WESTLAW Topic No. 15A.
C.J.S. Public Administrative Bodies and Pro-
cedure §§ 76, 78.

Sovereign immunity study. Cal.Law Revision
Comm. (1963) Vol. 5, p. 118.

§ 96-18. Conduits along or across streets, railways, ditches, etc.

Sec. 18. The agency shall have the power to construct its pipes, pipelines, flumes and tunnels and other conduits, including facilities for the transmission of electric energy to the works of the agency, along, under or across any public road, street, alley, avenue, highway or sidewalk, or across any stream of water, watercourse, railway, canal, ditch, or flume which the route of said pipes, pipelines, canals, flumes, tunnels, or other conduits may intersect or cross, except that such works shall be constructed in compliance with any applicable laws and in such manner as to afford security for life and property and the agency shall restore at its own expense any such crossings and intersections to their former state as nearly as may be, or to an extent which does not unnecessarily impair their usefulness. Every company, municipality, or district whose right of way shall be intersected or crossed by said pipes, pipelines, canals, flumes, tunnels or other conduits shall unite with the agency in forming said intersections and crossings and grant the rights therefor.

(Stats.1959, c. 2139, p. 5088, § 18.)

Cross References

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

Library References

Waters and Water Courses ¶193.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 241, 257.

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

§ 96-19. Right of way over public lands

Sec. 19. There is hereby granted to the agency the right of way for the location, construction, and maintenance of works authorized under the provisions of this act in, over and across public lands of the State of California, not otherwise disposed of or in use, but not in any case exceeding an area 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 agency, the board shall 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 selected, giving the extent thereof and the uses for which the same is claimed or desired, verified by the board. If the State Lands Commission approves the selection so made it shall endorse its approval upon the plat and issue to the agency a permit to use such right of way and lands.

(Stats.1959, c. 2139, p. 5089, § 19.)

Library References

Waters and Water Courses ⇨191.
WESTLAW Topic No. 405.
C.J.S. Waters § 255.

§ 96-20. Repealed by Stats.1975, c. 585, p. 1242, § 6

Law Revision Commission Comment

1975 Repeal

Section 20 [Water C.App. § 96-20] is superseded by Section 1240.330 of the Code of Civil Procedure and Section 861 of the Public Utilities Code.

Historical and Statutory Notes

The repealed section, added by Stats.1959, c. 2139, § 20, related to relocation of streets, railroads, and canals. Operative effect of 1975 repealer, see note under § 40-39.

§ 96-21. Reimbursement of county for expenses

Sec. 21. The agency may reimburse the county for any funds expended by the county in investigations, elections, or other acts incidental to the establishment of the agency.

(Stats.1959, c. 2139, p. 5089, § 21.)

§ 96-22. Contracts; sale of right to use falling water for power purposes

Sec. 22. Incidental to the construction and operation of the works of the agency, the agency shall have the power to contract for the sale of the right to use falling water for power purposes with any public or private entity.

(Stats.1959, c. 2139, p. 5089, § 22.)

Library References

Waters and Water Courses ⇨200(1), 201.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 264 et seq., 277 et seq.

§ 96-23. Sale or lease of water or right to use works to member units; rates and charges

Sec. 23. Any water or rights to the use of the works of the agency for the conservation, control or transportation of water may be sold, leased or otherwise transferred by the agency to member units, and the agency may fix and collect rates and charges for such purposes. The agency may transfer such water or the use of agency works to other than member units for use in or outside the agency upon a temporary or short-term basis, upon a finding by the board that such water or works exceed the needs of member units. The provisions of this section shall not prevent the disposition of electric power or power facilities to other than member units at wholesale. Each contract for or sale of surplus water or the use of such water facilities shall expressly state that the sale or disposition is subject to the prior right to the use of such water or facilities by or for member units.

(Stats.1959, c. 2139, p. 5090, § 23.)

§ 96-24. Contracts with member units

Sec. 24. The agency may enter into contracts with any member unit or with any district which becomes a member unit of the agency for any of the following purposes:

(a) The lease, purchase, or other acquisition by the agency of any of the works of such member unit or district.

(b) The construction of works by the agency for the conservation, regulation or transmission of water for the benefit of such member unit or district; or for the furnishing or sale by the agency or the State of California or the United States to such member unit or by such member unit to the agency of water or a water supply for any purpose; or for the assumption, by either the agency or the member unit, as principal or guarantor or underwriter of indebtedness incurred on account of works or water furnished or sold to the agency or member unit.

(c) The sale, lease, or other disposition of water, water rights, and water storage facilities or interests therein, by the agency or by such member unit.

(d) The operation of works and the delivery of water by the agency or by such member unit, except that:

(1) The works shall be operated in conformity with the vested rights and appropriations of each of its member units having an interest therein.

(2) There shall be delivered to each member unit all water to which such member unit is entitled under the contract entered into by the agency and such member unit.

(3) There shall not be delivered to any member unit more water than the amount to which such member unit is entitled under the contract entered into by the agency and such member unit, except that the release of water from any reservoir in the amount required to satisfy any vested right shall not constitute a delivery of water, and any amount of water assigned under Section 28 by one member unit to another member unit shall be delivered to the latter.

(Stats.1959, c. 2139, p. 5090, § 24.)

§ 96-25. Suspension of water delivery to delinquent member unit

Sec. 25. The agency in its discretion may suspend delivery of water conserved by the agency or obtained by or on behalf of the agency or a member unit to any member unit during the period which said member unit is delinquent in its payment for or obligations due in respect to such water under any contract entered into by it with the agency. The agency shall not engage in the retail sale of water; that is, the sale of water to the ultimate consumer. (Stats.1959, c. 2139, p. 5091, § 25.)

Library References

Waters and Water Courses ⇄203(12).
WESTLAW Topic No. 405.
C.J.S. Waters §§ 295, 307.

§ 96-26. Liability of member units

Sec. 26. The liability of each member unit, as distinguished from the liability of its taxpayers and property therein for taxes levied by the agency for agency purposes, shall be limited to that portion of the total cost for water or water supply or to that portion of the total cost of construction and the operation and maintenance cost of the works acquired or constructed by or on behalf of the agency or member unit which such member unit agrees to bear.

The liability of each member unit shall be set forth fully in a written contract which shall be legally approved by the member unit in accordance with the laws governing such member unit. No contract shall be altered or modified without the consent of the agency and the legal approval of the member unit.

Each contract may provide, among other things:

- (a) The total capital obligation which the member unit agrees to bear.
- (b) The minimum annual payments which the member unit shall make in amortization of its capital obligation.
- (c) The amount or pro rata portion of water which shall be delivered to or held in storage for the member unit.
- (d) The basis of allocation of operation and maintenance costs to be borne by the member unit.
- (e) The amount or other measure of water supply or water agreed to be acquired by or furnished or sold to such member unit and the cost thereof to such member unit. Such contracts shall be fair and equitable to each contracting party, and no member unit shall receive any undue advantage over any other member unit, having proper regard for all factors and conditions involved.

Such contracts shall be executed in accordance with the laws governing such districts.

(Stats.1959, c. 2139, p. 5091, § 26.)

§ 96-27. Reduction of obligations

Sec. 27. (a) In the event of any reduction in the principal of any debt of the agency underwritten by one or more member units, other than by payment thereof, the amounts to be paid to the agency by each member unit in amortization of its remaining portion of such debt shall be reduced proportionately so that the relative obligations of each such member unit shall be unchanged.

(b) In the event of any reduction in the rate of interest being paid on any part of a debt of the agency for which one or more member units are responsible, the amounts to be paid the agency by each such member unit shall be reduced proportionately so that the relative obligation of each such member unit remains unchanged in respect to its obligation to pay any remaining interest.

(c) In determining the amounts to be paid by all member units for water there shall be deducted from the cost of construction and operation or project works all revenues to be obtained from the sale of electric energy, if any, developed and sold by means of the project works.

(Stats.1959, c. 2139, p. 5091, § 27.)

§ 96-28. Assignment of rights by member units

Sec. 28. Any member unit may reduce its obligations under its contract with the agency by assignment to and acceptance by another member unit of any part of its right to receive water under its contract except that the assignment shall be legally approved, in accordance with the laws governing such member unit, by each member unit which is a party to the assignment, the total of all payments to be made by such member units to the agency shall not be reduced by virtue of the assignment and the assignor member unit may be required by the agency to guarantee the payments assumed by the assignee member unit.

(Stats.1959, c. 2139, p. 5092, § 28.)

§ 96-29. Sale of capital assets; disposition of proceeds

Sec. 29. If any capital asset of the agency is sold or otherwise disposed of, the net proceeds therefrom shall be distributed to the member units, or applied against any liability of the member units to the agency in proportion to the amount contributed by each member unit to the cost of the capital asset. However, if any liability on the part of the agency or its member units for the original cost or any subsequent improvement or refinancing of such capital asset is not completely extinguished at or before the time of the sale or disposal thereof, the agency may apply as much of the proceeds of the sale as are necessary to extinguish the liability. In extinguishing such liability, the proceeds of the sale shall be applied only as the interests and liabilities of the agency and its member units shall appear.

(Stats.1959, c. 2139, p. 5092, § 29.)

§ 96-30. Cooperation with the United States; reclamation

Sec. 30. The agency shall have the power to cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof and supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation and maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the agency, and for said purposes the agency shall have, in addition to the powers set forth in this act, all powers, rights and privileges

possessed by irrigation districts as set out in Chapter 2 of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(Stats.1959, c. 2139, p. 5092, § 30.)

Library References

Waters and Water Courses 222.
WESTLAW Topic No. 405.
C.J.S. Waters § 316.

Sovereign immunity study. Cal.Law Revision
Comm. (1963) Vol. 5, p. 99.

§ 96-31. United States contract fund

Sec. 31. All money collected in pursuance of contract with the United States shall be paid into the county treasury to the credit of the agency and shall be held in a fund to be known as the "United States contract fund" to be used for payments due to the United States under the contract.

(Stats.1959, c. 2139, p. 5092, § 31.)

Library References

Sovereign immunity study. Cal.Law Revision
Comm. (1963) Vol. 5, p. 99.

§ 96-32. Cooperation with United States, state, municipalities, etc.; contracts

Sec. 32. The agency may cooperate and act in conjunction and contract with the United States, State of California, any municipality, district, public or private corporation, or any person; in the purchase and sale of water, in the acquisition of water or a water supply, in the construction of any works for the controlling of flood or storm waters in the agency, or for the protection of property, watersheds, watercourses, highways and life, or for the purpose of conserving and transporting said waters for beneficial uses and purposes, including recreational uses and the generation of electric energy, and for the use, operation and management and ownership of such works. The agency also may make and perform any agreement with the United States, the State, any county, municipality, district, public or private corporation, or any person for the joint acquisition, disposition, operation or management of any property, works, water or water supply of a kind which might be acquired, disposed of, or operated by the agency.

Any irrigation district, California water district, public utility district, municipal utility district, county water district, water conservation district, municipality, flood control district, and any other district or political subdivision of the State empowered by law to appropriate water and deliver water to users may:

(a) Cooperate, act in conjunction with and enter into contracts with the agency for all the purposes for which the agency is empowered to cooperate or act in conjunction and contract with such districts, municipalities, and political subdivisions.

(b) Carry out the terms of such contracts.

(Stats.1959, c. 2139, p. 5093, § 32.)

Library References

Sovereign immunity study. Cal.Law Revision
Comm. (1963) Vol. 5, p. 99.

§ 96-33. Board of directors; membership, appointments, terms, vacancies, expenses, chairperson, oaths, and quorum

Sec. 33. * * * (a) On and after March 1, 2002, the board of directors of the agency shall consist of five members, who are appointed as follows:

(1)(A) Subject to paragraph (1) of subdivision (e), three directors shall be members of the board of supervisors of the county who are appointed by that board to a term of four years, except that one of the three directors whose terms commence on March 1, 2002, shall be appointed to serve until January 31, 2004, subject to the appointment and qualification of his or her successor.

(B) In making appointments pursuant to this paragraph, the board of supervisors of the county shall consider appointing a member that represents a supervisorial district that includes the largest area in the county not served by a water district.

(2) Subject to paragraph (1) of subdivision (e), one director shall be a member of the Board of the South Lake Tahoe Public Utility District or the Tahoe City Public Utility District who is appointed pursuant to a resolution adopted by a majority vote of the board of directors of each of the districts described in this paragraph to a term of four years. An alternate director who meets the requirements of this paragraph shall also be appointed pursuant to this paragraph to serve if the director who is appointed pursuant to this paragraph is absent or unable to serve for any reason.

(3)(A) One director shall be a member of the Board of the El Dorado Irrigation District, the Grizzly Flats Community Services District, or the Georgetown Divide Public Utility District who is appointed pursuant to a resolution adopted by a majority vote of the board of directors of at least two of the districts described in this paragraph to a term of four years, except that the director whose term commences on March 1, 2002, shall be appointed to serve until January 31, 2004, subject to the appointment and qualification of his or her successor. An alternate director who meets the requirements of this paragraph shall also be appointed pursuant to this paragraph to serve if the director who is appointed pursuant to this paragraph is absent or unable to serve for any reason.

(B) If a director is selected pursuant to this paragraph who is not a member of the board of the El Dorado Irrigation District, the boards of the districts described in subparagraph (A) shall appoint, by majority vote, a director who is a member of the board of the El Dorado Irrigation District to a term of four years who shall serve upon the conclusion of the term of the director who is selected pursuant to this paragraph who is not a member of the board of the El Dorado Irrigation District.

(b) Not later than January 15 of the year in which the term of office is required to commence, each district from which appointees have been selected pursuant to paragraph (2) or (3) of subdivision (a) shall notify, in writing, the board of the agency regarding those appointments.

(c)(1) If no notification of an appointment is received by the board of the agency pursuant to subdivision (b) with regard to an appointment described in paragraph (2) or (3) of subdivision (a), the board of the agency shall request, in writing, the board of supervisors of the county to appoint that director or alternate director.

(2) A director or alternate director appointed pursuant to this subdivision for the purposes of making an appointment described in paragraph (2) of subdivision (a) shall be a member of the board of the South Lake Tahoe Public Utility District or the Tahoe City Public Utility District.

(3) A director or alternate director appointed pursuant to this subdivision for the purposes of making an appointment described in paragraph (3) of subdivision (a) shall be a member of the board of the El Dorado Irrigation District, the Grizzly Flats Community Services District, or the Georgetown Divide Public Utility District.

(d) Notwithstanding the fixed terms of the directors, each of the five directors shall serve at the pleasure of the appointing authorities. For the purposes of this subdivision, the board of supervisors of the county shall be the appointing authority with regard to any appointment made pursuant to subdivision (c).

(e)(1) The terms of office for the initial board of directors appointed pursuant to this section shall commence on March 1, 2002. Except as otherwise provided in paragraphs (1) and (3) of subdivision (a), the terms of office for the initial board of directors appointed pursuant to this section shall expire on January 31, 2006, subject to the appointment and qualification of the respective successor.

(2) For succeeding directors, other than those appointed to fill vacancies, each term of office shall commence on February 1 of the applicable year and shall expire on January 31, four years thereafter, subject to the appointment and qualification of the respective successor.

(f) If a director who is a member of the board of supervisors of the county or is a member of a board of directors of a special district named in subdivision (a) ceases to be a member during his or her term, his or her position as a director of the agency shall be vacant. Any vacancy in the office of a director shall be filled by the appropriate appointing authorities.

(g) Each * * * director shall serve * * * on the board of * * * the agency without additional compensation, except the member shall be allowed his or her actual, necessary, and reasonable traveling expenses.

(h) The board of directors shall elect a chairperson, who shall preside at all meetings of the board and shall elect a vice chairperson for the purposes of serving in case * * * the chairperson is absent or unable to act * * *.

(i) Any member of the board may administer oaths, when necessary in the performance of his or her official duties.

(j) A majority of the members of the board shall constitute a quorum for the transaction of business, and no act of the board shall be valid or binding unless a majority of all members concur therein. (Stats.1959, c. 2139, p. 5093, § 33. Amended by Stats.2001, c. 91 (S.B.428), § 1.)

Historical and Statutory Notes

2001 Legislation

Stats.2001, c. 91 rewrote this section, which had read:
"The board of supervisors of the county shall be ex officio the board of directors of the agency. The board of directors may adopt reasonable rules and regulations to carry out its powers and duties. Each member of the board of supervisors shall serve as a member of said board of directors without additional compensation, except such member shall be allowed his actual, necessary and reasonable traveling expenses. The board of directors

shall elect a chairman, who shall preside at all meetings of the board and in case of his absence or inability to act, the members present must, by an order entered in their records, select one of their number to act as temporary chairman. Any member of the board may administer oaths, when necessary in the performance of his official duties. A majority of the members of the board shall constitute a quorum for the transaction of business, and no act of the board shall be valid or binding unless a majority of all members concur therein."

§ 96-34. Repealed by Stats.1970, c. 447, p. 896, § 27

Historical and Statutory Notes

The repealed section, added by Stats.1959, c. 2139, § 34, related to conflict of interest.

§§ 96-35 to 96-37. Repealed by Stats.1963, c. 1985, p. 3308, §§ 13 to 15

Historical and Statutory Notes

The repealed sections, added by Stats.1959, c. 2139, p. 5094, §§ 35 to 37, related to liability of directors, officers, agents or employees.

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

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

§ 96-38. County officers and employees as officers and employees of agency; performance of duties

Sec. 38. All officers of the county, and their assistants, deputies, clerks and employees, shall be ex officio officers, assistants, deputies, clerks and employees respectively of the agency, and shall perform, unless otherwise provided by the board, the same duties for the agency as performed for the county; except that if the county surveyor is a registered civil engineer and is employed to supervise the engineering work of the agency, the board may provide compensation for his services in addition to his salary as county surveyor which shall be payable from the funds of the agency.

(Stats.1959, c. 2139, p. 5094, § 38.)

Library References

Counties ~~8~~81.
WESTLAW Topic No. 104.
C.J.S. Counties §§ 122, 127.

§ 96-39. Employment of additional personnel

Sec. 39. The board may employ agents, superintendents, engineers, attorneys, and employees necessary to carry out the provisions of this act.

The board may appoint a secretary and such other officers, agents and employees for the board or agency as in its judgment may be deemed necessary, prescribe their duties and fix their compensation, such officers, agents and employees so appointed shall hold their respective offices or positions during the pleasure of the board.

(Stats.1959, c. 2139, p. 5094, § 39.)

§ 96-40. Ordinances, resolutions and other legislative acts; initiative and referendum

Sec. 40. All ordinances, resolutions and other legislative acts of the agency shall be adopted by the board, and certified to, recorded and published in the same manner, except as herein otherwise expressly provided, as are ordinances, resolutions or other legislative acts of the county.

The initiative and referendum powers are hereby granted to the electors of the agency to be exercised in relation to the enactment or rejection of agency ordinances in accordance with the procedure established by the laws of this State for the exercise of such powers in relation to counties.

(Stats.1959, c. 2139, p. 5095, § 40.)

Cross References

County ordinances, see Government Code § 25120 et seq.
Initiative and referendum, see Elections Code § 9100 et seq.

§ 96-41. Claims against agency; law governing; preparation; presentation; audit

Sec. 41. Claims for money or damages against the agency are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body, and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county.

(Added by Stats.1961, c. 2011, p. 4224, § 24. Amended by Stats.1963, c. 1715, p. 3411, § 102.)

Historical and Statutory Notes

Former § 96-41 added by Stats.1959, c. 2139, p. 5095, § 41, relating to claims against agency, was repealed by Stats.1961, c. 2011, p. 4224, § 23. Applicability of Stats.1963, c. 1715, p. 3369, see Historical Note under Government Code § 900.

Cross References

Claims against counties, see Government Code § 29700 et seq.

Library References

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

§ 96-42. Title to property

Sec. 42. The legal title to all property acquired under the provisions of this act shall be in the agency and shall be held for the uses and purposes of this act. The board may hold, use, acquire, manage, occupy and possess such property and, after declaring by resolution entered in the minutes that any real or personal property held by the agency is no longer necessary, may sell or otherwise dispose of such property, or lease the same, in the manner provided by law for the disposition and sale of property by counties.

(Stats.1959, c. 2139, p. 5095, § 42.)

Cross References

Sale of county property, see Government Code §§ 23004, 25354 et seq.

§ 96-43. Repealed by Stats.1984, c. 1128, § 156

Historical and Statutory Notes

The repealed section, added by Stats.1959, c. 2139, § 43, related to requirements for contracts. See, now, Pub. Con. C. § 21461.

§ 96-44. Debt limit

Sec. 44. The agency shall not incur any indebtedness or liability exceeding in any year the income and revenue provided for such year, and any indebtedness or liability incurred in violation of this section shall be absolutely void and unenforceable. This section shall have no application to debts or liabilities incurred pursuant to the provisions of this act authorizing the issuance of bonds, the levying of special assessments, the execution of contracts with the United States, nor the incurring of any indebtedness or liability authorized by a vote of the electors of the agency at an election held for such purpose.

(Stats.1959, c. 2139, p. 5096, § 44.)

Library References

Sovereign immunity study. Cal.Law Revision Comm. (1963) Vol. 5, pp. 209, 211.

§ 96-45. Bonded debt limit

Sec. 45. The aggregate of agency indebtedness incurred pursuant to the provisions of this act authorizing the issuance of bonds, the levying of special assessments and the execution of contracts, shall not exceed a sum equal to: (a) the amount of all capital obligations underwritten by member units of the agency, plus (b) the amounts agreed to be paid by member units to the agency or to the United States for water or a water supply.

(Stats.1959, c. 2139, p. 5096, § 45.)

§ 96-46. Zones

Sec. 46. (a) **Establishment.** The board by resolution shall establish such zones within the agency as in the judgment of said board are necessary to equitably apportion the benefits of the agency to the lands within the respective zones. Such zones may be established within the agency without reference to the boundaries of other zones, by setting forth the descriptions thereof by metes and bounds and by entitling each of such zones by a zone number. The lands comprising a zone need not be contiguous. All zones shall be established only with respect to projects for the benefit of such zones and 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 this section.

(b) **Projects; resolution; notice of hearing.** The board may institute projects for the financing, acquisition, constructing, maintaining, operating, extending, repairing or otherwise improving any work of benefit to single zones or two or more zones. In cases of projects for the benefit of two or more zones, such zones shall become, and shall be referred to as, participating zones. For the purpose of acquiring authority to proceed with any such project the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of same to be borne by the particular zone or participating zones and fixing a time and place for public hearing of said resolution. The resolution 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 pursuant to Section 6066 of the Government Code 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 two public places designated by the board, in such zone or in each of said participating zones. Publication shall be completed at least seven days before the date of the hearing. Said notice must designate a public place in such zone or in each of said participating zones where a copy or copies of the resolution and the map or maps of the proposed project may be seen by any interested person; said resolution and map or maps must be posted in each of said public places so designated in said notice at least two weeks prior to said hearing.

(c) **Hearing; objections; conclusion.** 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, or a portion thereof, unless prior to the conclusion of said hearing written protests have been filed against the proposed project signed by owners of real property within the zone or participating zone the assessed value of which, as shown by the last equalized assessment roll, constitutes more than one-half of the total assessed value of the real property of such zone, 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 at the discretion of the board.

(d) **Taxes; levy and collection.** The board shall have power, in any year:

(1) To levy taxes upon all taxable property in each or any of said zones according to benefits derived or to be derived therein to pay the cost and expenses of carrying out any of the objects or purposes of this act of benefit to such zones, including the administering, acquiring, constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement established or to be established within or on behalf of said respective zones. Said taxes shall be based upon the assessment rolls used by the county for general tax purposes and shall not exceed fifty cents (\$0.50) on each one hundred dollars (\$100) of assessed valuation, exclusive of any tax levied pursuant to subdivision (f), hereof.

(2) Said taxes shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from said agency taxes shall be paid into the county treasury to the credit of the agency and the respective zones thereof, and the board shall have the power to control and order the expenditure thereof; provided, however, that no revenues, or portions thereof, derived in any of the several zones from the taxes levied under the provisions of this section shall be expended for acquiring, constructing, maintaining, operating, extending, repairing or otherwise improving any works located in any other zone, except in the case of projects for the benefit of participating zones or for projects authorized or established outside such zone or zones, but for the benefit thereof.

(e) **Bonded indebtedness; resolution; amount; filing.** Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work in any zone or participating zones, the board may by resolution determine and declare the respective amounts of bonds necessary to be issued in each zone in order to raise the amount of money necessary for each work and the maximum rate of interest of said bonds. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the office of the Recorder of El Dorado County within five (5) days after its adoption. 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.

(f) **Special bond election; call.** After the filing for record of the resolution specified in subdivision (e) 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 levied upon the lands situated within the zone or participating zones, and all such lands shall be and remain liable to be taxed for such payments as provided in this act.

(g) **Resolution calling election; contents.** The board shall call such special bond election by resolution 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 the resolution referred to in subdivision (e) of this section. The resolution calling the bond election shall recite 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 the resolution referred to in subdivision (e) of this section. The resolution calling such special bond election shall also state the estimated cost of the proposed work, the amount of the principal of the indebtedness to be incurred and the maximum rate of interest to be paid on said indebtedness. Said resolution shall also 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 7 percent per annum. For the purposes of said election said board shall in said resolution calling said bond election establish a special bond election precinct or precincts within the boundaries of each zone and participating zones and may form election precincts by consolidating the precincts established for general elections in the agency to a number not exceeding six general precincts for each such special bond election precinct. Said resolution shall also designate polling places and appoint at least one inspector, one judge and one clerk for each of such special bond election precincts.

(h) **Conformity with election laws.** In all particulars not recited in said resolution calling said bond election, such special bond election shall be held as nearly as practicable in conformity with the general election laws of the state.

(i) **Map; posting.** The board shall cause a map to be prepared covering a general description of the work to be done, which said map shall show the location of the proposed work 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.

(j) **Publication of resolution calling election.** Said resolution calling for such special bond election shall, prior to the date set for such election, be published in a newspaper of general circulation circulated in each zone and participating zone affected for six consecutive times if published in a daily newspaper of general circulation, or two times if published in a weekly

newspaper of general circulation. The last publication of such resolution must be at least fourteen (14) days before said election, and if there be no such newspaper, then such resolution shall be posted in two 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.

(k) Defects and irregularities; vote required. 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 of the votes cast in the zone or in each of the participating zones are in favor of incurring such bonded indebtedness, then bonds for such zone or participating zones for the amount stated in such proceedings may be issued and sold as in this act provided.

(l) Form of bonds; payment. 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.

(m) Series; maturity. 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 dates from those of any other series. The maturity dates of each series shall comply with this section. The board may fix a date not more than two (2) years from the date of issuance for the earliest maturity of each issue or series of bonds. The final maturity date of each issue or series shall not exceed forty (40) years from the time of incurring the indebtedness evidenced by such issue or series.

(n) Issuance of bonds; procedure. The bonds shall be issued in such denomination as the board may determine, 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 7 percent per annum, and shall be made payable annually or semiannually, and the bonds of each issue or series shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the auditor of the agency, and the seal of the agency shall be affixed thereto by the clerk of the board. One of such signatures may be printed, engraved or lithographed. The interest coupons of said bonds shall be numbered consecutively and signed by the said auditor by his printed, engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers 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 officers had remained in office until the delivery of the bonds.

(o) **Notice of sale; bids.** Before selling the bonds, or any part thereof, the board shall give notice not less than 10 days prior to the date of sale by publication in a newspaper of general circulation circulating in the agency inviting sealed bids in such manner as the board shall prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

(p) **Payment of bonds; tax levy; liability.** Any bonds issued under the provisions of this section, and the interest thereon, shall be paid by revenues derived from an annual tax upon all taxable property in the zone or participating zones 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. 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 in any of the several zones be used in payment of principal or interest or otherwise of the share of the bonded indebtedness chargeable to any other zone. Such taxes shall be levied and collected in the respective zones or participating zones, together with and not separately from taxes for county purposes, and the revenues derived from said taxes shall be paid into the County Treasury of said El Dorado 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. It is hereby declared that for the purposes of any tax levied pursuant to this subdivision (p), the property so taxed within a given zone is equally benefited.

(Added by Stats.1971, c. 155, p. 206, § 1.)

§ 96-47. Ad valorem tax; purposes; limitation

Sec. 47. The agency shall have the power in any year to levy an ad valorem tax upon all the taxable property in the agency to pay any anticipated lawful expenditures of the agency except the cost of constructing any works; provided, however, that such levy for any one fiscal year shall not exceed ten cents (\$0.10) on each one hundred dollars (\$100) of the assessed valuation of the taxable property in the agency exclusive of any tax levied to meet the bonded indebtedness of the agency and the interest thereon authorized by a vote of the electors of the agency, and exclusive of any special assessment levied to meet any indebtedness or contractual liability authorized by a vote of the electors of the agency, and exclusive of any tax levied for the payment of any indebtedness represented by capital obligations underwritten by member units or represented by the amounts agreed to be paid by member units for any water or water supply to be furnished or sold such member units.

Such taxes shall be levied and collected with taxes for county purposes, and the revenue derived therefrom shall be paid into the county treasury to the

credit of the agency, and the board shall have the power to control and order the expenditure thereof for said purposes.

(Stats.1959, c. 2139, p. 5096, § 47.)

Cross References

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

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

Library References

Waters and Water Courses ⇌198.

WESTLAW Topic No. 405.

C.J.S. Waters §§ 229, 262.

§ 96-48. Special ad valorem tax; delinquent member unit

Sec. 48. The agency may levy a special ad valorem tax on all the taxable property in any member unit whenever any such member unit is delinquent in any payment due the agency under a contract. The tax shall be levied only at a rate sufficient to raise the amount delinquent. The tax shall be levied and collected at the same time and in the same manner as general agency taxes, shall be paid into the county treasury to the account of the agency and shall be used only to reduce the liability of the delinquent member unit.

No property in any portion of the agency, other than that in the delinquent member unit, shall be liable for or taxed to pay such delinquency.

(Stats.1959, c. 2139, p. 5097, § 48.)

§ 96-49. Taxation; law applicable

Sec. 49. The provisions of law of this State, prescribing the priority, 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 hereby adopted for the agency and made a part hereof, so far as they are applicable and not in conflict with this act. Such officers shall be liable upon their official bond for the faithful discharge of the duties imposed upon them by this act.

(Stats.1959, c. 2139, p. 5097, § 49.)

Cross References

County property taxes,

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

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

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

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

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

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

§ 96-50. Bonds; preliminary procedure; special bond election; irregularities; favorable vote

Sec. 50. (a) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work or project, it may determine and

declare by resolution the amount of bonds necessary to be issued in each member unit for such work or project, and the maximum rate of interest of said bonds. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the office of the recorder of the county within five (5) days after its issuance.

(b) After filing such resolution, the board shall call a special bond election in each said member unit to submit to the qualified electors of each member unit the question whether or not bonds shall be issued in the amount and for the purposes stated in the resolution. The bonds and the interest thereon shall be paid from revenue derived from annual taxes or assessments levied as provided in this act.

(c) The special bond election shall be called by ordinance and the board shall submit to the qualified electors of each member unit, the proposition of incurring a bonded debt in the member unit or member units in the amount and for the purposes stated in the resolution and shall recite therein the purposes for which the indebtedness is proposed to be incurred, except that it shall be sufficient to give a brief, general description of such purposes, and refer to the recorded copy of the resolution. The ordinance shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on the indebtedness and shall fix the date on which the special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on the indebtedness shall not exceed five percent (5%) per annum. For the purposes of the election, the board shall establish special bond election precincts within the boundaries of each member unit and may form election precincts by consolidating the precincts established for general elections in the agency, not to exceed six general precincts for each such special bond election precinct. In addition, the ordinance shall designate a polling place and appoint one inspector, one judge and one clerk for each special bond election precinct.

The special bond election shall be held as nearly as practicable in conformity with the general election laws of the State except as otherwise provided in this act.

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

Said ordinance calling for the special bond election shall be published prior to the date set for such election in a newspaper of general circulation, circulated in each member unit affected for six consecutive times if published in a daily newspaper of general circulation, or two times if published in a weekly newspaper of general circulation. The last publication of the ordinance must be at least fourteen (14) days before the election, and if there be no such newspaper, then the ordinance shall be posted in five public places designated by the board in each affected member unit for at least thirty (30) days before

the date of the election. No other notice of election need be given nor need polling place cards be issued.

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

(Stats.1959, c. 2139, p. 5097, § 50.)

Cross References

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

§ 96-51. Bonds; form; time and place of payment; series bonds; denominations; signatures

Sec. 51. The board shall prescribe by resolution the form of the bonds, which shall include a designation of the member units affected, and the form of the interest coupons attached to the bonds. Said bonds shall be payable annually or semiannually, at the discretion of the board, on a day and at a place designated in the bonds, together with the interest on all sums unpaid on such date until the whole of said indebtedness is paid.

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. The board may fix a date, not more than two years from the date of issuance, for the earliest maturity of each issue or series of bonds. Beginning with the date of the earliest maturity of each issue or series, not less than one-fortieth ($\frac{1}{40}$) of the indebtedness of such issue or series shall be paid every year. The final maturity date shall not exceed forty (40) years from the time of incurring the indebtedness evidenced by each issue or series.

The bonds shall be issued in such denominations as the board may determine, except that no bonds shall be of a less denomination than one hundred dollars (\$100), nor of a greater denomination than one thousand dollars (\$1,000), and shall be payable on the days and at the place fixed in said bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of five per centum (5%) per annum, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the auditor of said agency and the seal of said agency 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 signa-

tures 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.

(Stats.1959, c. 2139, p. 5098, § 51.)

§ 96-52. Bonds; issuance and sale; price; proceeds

Sec. 52. The board may issue and sell the bonds of such member units at not less than par value, and the proceeds of the sale of such bonds shall be placed in the treasury of the county to the credit of said agency and the respective member units thereof, for the uses and purposes of the member unit or member units voting said bonds; and in the proper record of such transactions shall be placed upon the books of said county treasurer, and said respective member unit funds shall be applied exclusively to the purposes and objects mentioned in the ordinance calling such special bond election. Payments from said member unit funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon any of the funds of the county.

(Stats.1959, c. 2139, p. 5099, § 52.)

§ 96-53. Bonds; payment from tax revenues; liability of member units

Sec. 53. 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 Section 54. No member unit nor the property therein nor other lands within the agency shall be liable for the share of bonded indebtedness of any other member unit for which bonds are issued under this act, nor shall any moneys derived from taxation or assessment in any of the several member units be used in payment of principal or interest or otherwise of the share of bonded indebtedness chargeable to any other member unit.

(Stats.1959, c. 2139, p. 5099, § 53.)

§ 96-54. Bond tax

Sec. 54. The board shall levy a tax or assessment each year in the member unit or member units of issuance, 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 member units of issuance with taxes for county purposes, and when collected shall be paid into the county treasury of the county to the credit of the member unit of issuance, and be used for the payment of the principal and interest on said bonds and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer in the manner provided by law for the payment of principal and interest on bonds of said county.

(Stats.1959, c. 2139, p. 5100, § 54.)

Cross References

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

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

Payment of principal and interest on county bonds, see Const. Art. 11, § 37.5; Government Code § 29915.

§ 96-55. Revenue bonds

Sec. 55. If the board by resolution determines that a bonded indebtedness to pay the acquisition or construction of any works for any purposes of the agency or for refunding any outstanding bonds should be incurred and can be repaid and liquidated as to both principal and interest from revenues designated by the board, other than taxes levied in the agency or any member unit, the board may incur such indebtedness upon approval by the State Treasurer and in the manner, for the purposes, and to the extent authorized and provided in Sections 50, 51, 52, 53 and 54 hereof for the issuance of general obligation bonds except that such revenue bonds may be issued when a majority vote of the qualified electors voting on the proposition at an election, favor the issuance of the bonds.

(Stats.1959, c. 2139, p. 5100, § 55. Amended by Stats.1971, c. 214, p. 320, § 189.)

§ 96-56. Improvements; conformity to report, plans and specifications; additional bonds; defeat of bond proposal; waiting period before new election

Sec. 56. 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.

Whenever bonds have been authorized by any member unit or member units of the agency and the proceeds of the sale thereof have been expended as authorized in this act, and the board shall by resolution determine that additional bonds should be issued for carrying out any of the purposes of this act, the board may again proceed as provided in this act, and submit to the qualified voters of said member unit or member units the question of issuing additional bonds in the same manner and with like procedures as provided in this act, and 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.

Should a proposition for issuing bonds for any member unit or member units 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 the board shall not call or order, within six months after such election, another election in such member unit or member units for incurring indebtedness and issuing bonds under this act for the same purpose.

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

(Stats.1959, c. 2139, p. 5100, § 56.)

§ 96-57. Revenue bonds; issuance; lien, charge or liability against property

Sec. 57. The agency may issue revenue bonds in its name and as its obligation, but neither principal nor the interest of any bond issued or sold pursuant to Section 55 shall become a lien, charge, or liability against any property in the agency, the State of California, or against the agency or any property or funds thereof or therein, except to the extent of the pledge of revenues or part of revenues of the works, as may be provided by the indenture pursuant to which revenue bonds are issued, and each such bond issued by the district shall contain a recital on the face thereof substantially as follows:

"This bond is not a lien, charge or liability, as to either principal or interest against any property in the El Dorado County Water Agency, the State of California, or against the El Dorado County Water Agency or any property or funds thereof, except to the extent of the pledge of revenues or part of revenues as provided by the indenture pursuant to which it is issued."

(Stats.1959, c. 2139, p. 5101, § 57.)

§ 96-58. Time, form and manner of issuance of revenue bonds

Sec. 58. The agency shall determine the time, form and manner of issuance of revenue bonds.

(Stats.1959, c. 2139, p. 5101, § 58.)

§ 96-59. Indentures; authority to enter; provisions

Sec. 59. The agency may enter into indentures providing for the aggregate principal amount, date or dates, maturities, interest rates, denominations, form, registration, transfer, and interchange of any revenue bonds and coupons issued pursuant to this act, and the terms and conditions on which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. Reference on the face of the bonds to such indenture by its date of adoption or the apparent date on the face thereof, is sufficient to incorporate all of the provisions thereof and of this act into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this act, and is bound thereby.

(Stats.1959, c. 2139, p. 5101, § 59.)

§ 96-60. Indenture provisions; covenants and agreements

Sec. 60. An indenture pursuant to which bonds are issued may include any and all such covenants and agreements on the part of the agency as the agency

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deems necessary or advisable for the better security of the bonds issued thereunder.

(Stats.1959, c. 2139, p. 5101, § 60.)

§ 96-61. Indenture provisions; means of securing bond payments

Sec. 61. An indenture shall provide the means by which payments of principal and interest of bonds shall be secured.

(Stats.1959, c. 2139, p. 5101, § 61.)

§ 96-62. Indenture agreements; payment of bonds

Sec. 62. An indenture may include a clause relating to the bonds issued thereunder requiring the agency to pay or cause to be paid punctually the principal of all such bonds and the interest thereon on the date or dates, or at the place or places, and in the manner mentioned in such bonds and in the coupons appertaining thereto in accordance with such indenture.

(Stats.1959, c. 2139, p. 5101, § 62.)

§ 96-63. Indenture agreements; operation of conservation works

Sec. 63. An indenture may include a clause relating to the bonds issued thereunder, requiring the agency to operate the conservation works continuously, to the extent practicable under conditions as they may from time to time exist, in an efficient and economical manner.

(Stats.1959, c. 2139, p. 5102, § 63.)

§ 96-64. Indenture agreements; repairs, renewals and replacements to works

Sec. 64. An indenture may include a clause relating to the bonds issued thereunder requiring the agency to make all necessary repairs, renewals and replacements to any conservation works, and to keep the project at all times in good repair, working order and condition.

(Stats.1959, c. 2139, p. 5102, § 64.)

§ 96-65. Indenture agreements; preservation and protection of security of bonds

Sec. 65. An indenture may include a clause relating to the bonds issued thereunder requiring the agency to preserve and protect the security of the bonds and the rights of the holders thereof and to warrant and defend such rights.

(Stats.1959, c. 2139, p. 5102, § 65.)

§ 96-66. Indenture agreements; discharge of claims

Sec. 66. An indenture may include a clause relating to the bonds issued thereunder requiring the agency to pay and discharge or cause to be paid and

discharged all lawful claims for labor, materials and supplies or other charges which, if unpaid, might become a lien or charge upon the revenues, or any part thereof, of any project acquired, constructed or completed from the proceeds of the sale of the bonds, or upon any physical properties, or which might impair the security of the bonds.

(Stats.1959, c. 2139, p. 5102, § 66.)

§ 96-67. Indenture agreements; limitation on sale, lease or disposal of improvements

Sec. 67. An indenture may include a clause relating to the bonds issued thereunder which limits, restricts, or prohibits any right, power or privilege of the agency to mortgage or otherwise encumber, sell, lease or dispose of any improvements constructed from the proceeds of the bonds, or otherwise owned or operated by the agency or to enter into any lease or agreement which impairs or impedes the operation of conservation works, or any part thereof, necessary to secure adequate revenues or which otherwise impairs or impedes the rights of the holders of the bonds with respect to such revenues.

(Stats.1959, c. 2139, p. 5102, § 67.)

§ 96-68. Indenture agreements; fixing and collecting rates, rentals or other charges

Sec. 68. An indenture may include a clause relating to the bonds issued thereunder requiring the agency to fix, prescribe and collect rates, rentals or other charges in connection with the services and facilities furnished from the conservation works acquired, constructed or purchased from part or all of the proceeds of the bonds, sufficient to pay the principal of and interest on the bonds as they become due and payable, together with such additional sums as may be required for any sinking fund, reserve fund or other special fund provided for the further security of such bonds or as a depreciation charge or other charges in connection with such project.

(Stats.1959, c. 2139, p. 5102, § 68.)

§ 96-69. Indenture agreements; trust funds; application of bond revenues

Sec. 69. An indenture may include a clause relating to the bonds issued thereunder requiring the agency to hold or cause to be held in trust the revenues or any part of revenues pledged to the payment of such bonds and the interest thereon, or to any reserve or other fund created for the further protection of the bonds, and to apply such revenues or part of revenues or cause them to be applied only as provided in the indenture.

An indenture may include a clause defining the power of the agency in applying the proceeds of the sale of any issue of bonds for the acquiring, construction, or completing of any conservation works or any part thereof.

(Stats.1959, c. 2139, p. 5102, § 69.)

§ 96-70. Indenture agreements; issuance of additional bonds; conditions

Sec. 70. An indenture may include a clause subjecting the power of the agency to issue additional bonds to such conditions as the agency deems necessary.

(Stats.1959, c. 2139, p. 5103, § 70.)

§ 96-71. Indenture agreements; insurance

Sec. 71. An indenture may include a clause requiring, specifying or limiting the kind, amount and character of insurance to be maintained by the agency on any works, or any part thereof, and the use and disposition of the proceeds of any such insurance thereafter collected.

(Stats.1959, c. 2139, p. 5103, § 71.)

§ 96-72. Indenture agreements; default; payments before maturity; waiver

Sec. 72. An indenture may include a clause providing the events of default and the terms and conditions upon which any or all of the bonds of the agency then or thereafter issued may become or be declared due and payable prior to maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

(Stats.1959, c. 2139, p. 5103, § 72.)

§ 96-73. Indenture agreements; breach of covenants, conditions or obligations

Sec. 73. An indenture may include a clause designating the rights, limitations, powers and duties arising upon breach by the agency of any of the covenants, conditions, or obligations contained in any indenture.

(Stats.1959, c. 2139, p. 5103, § 73.)

§ 96-74. Indenture agreements; amendment or modification of terms or conditions

Sec. 74. An indenture may include a clause prescribing a procedure by which the terms and conditions of the indenture may be subsequently amended or modified with the consent of the agency and the vote or written assent of the holders of a specified principal amount or specified proportion of the bonds issued and outstanding. Such clause may provide for meetings of bondholders and for the manner in which the consent of the bondholders may be given. The clause shall specifically state the effect of such amendment or modification upon the rights of the holders of all of the bonds and interest coupons appertaining thereto, whether attached thereto or detached therefrom.

With respect to any clause providing for the modification or amendment of an indenture, the agency may agree that bonds held by the agency or by the State of California or any political subdivision thereof shall not be counted as

outstanding bonds, or be entitled to vote or assent, but shall, nevertheless, be subject to any such modification or amendment.
(Stats.1959, c. 2139, p. 5103, § 74.)

§ 96-75. Indenture agreements; other acts

Sec. 75. An indenture may include a clause or clauses providing for such other acts and matters as may be necessary or convenient or desirable in order better to secure the bonds or to make the bonds more marketable.
(Stats.1959, c. 2139, p. 5103, § 75.)

§ 96-76. Trustee; designation; authority

Sec. 76. The agency may designate a bank or trust company qualified to do business in this State, as a trustee for the agency and the holders of bonds issued under this act, and may authorize the trustee to act on behalf of the holders of the bonds, or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders.
(Stats.1959, c. 2139, p. 5103, § 76.)

§ 96-77. Trustee conditions of receiving, holding or disbursing revenues; duties and powers with respect to bonds

Sec. 77. The agency may fix and determine the conditions upon which any trustee shall receive, hold or disburse any or all revenues deposited with it by or by authority of the agency. The agency shall prescribe the duties and powers of any such trustee with respect to the issuance, authentication, sale and delivery of the bonds and the payment of principal and interest thereof, the redemption of the bonds, the registration and discharge from registration of the bonds, and the management of any sinking fund or other funds provided as security for the bonds.
(Stats.1959, c. 2139, p. 5104, § 77.)

§ 96-78. Bond issue; series; divisions; terms

Sec. 78. The agency may provide for one or several issues of bonds and may issue bonds in series or may divide any issue into one or more divisions and fix different maturities or dates of such bonds, different rates of interest, or prescribe different terms and conditions for the bonds of the several series or divisions. It is not necessary that all bonds of the same authorized issue be of the same kind or character, have the same security, or be of the same interest rate, but the terms thereof shall in each case be provided for by the agency, at or prior to the issue thereof.
(Stats.1959, c. 2139, p. 5104, § 78.)

§ 96-79. Coupon bonds; registered bonds; interchange; registration

Sec. 79. Bonds may be issued as coupon bonds or as registered bonds. The agency may provide for the interchange of coupon bonds for registered bonds

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and registered bonds for coupon bonds, and may provide that the bonds shall be registered as to principal only, or as to both principal and interest, or otherwise as the district may determine.

(Stats.1959, c. 2139, p. 5104, § 79.)

§ 96-80. Call or redemption of bonds; terms; conditions; notice

Sec. 80. Bonds may be callable upon such terms, condition, and upon such notice as the agency may determine, and upon the payment of such premium as may be fixed by the agency in the proceedings for the issuance of the bonds. No bond is subject to call or redemption prior to its fixed maturity date unless the right to exercise such call is expressly stated on the face of the bond.

(Stats.1959, c. 2139, p. 5104, § 80.)

§ 96-81. Payment of principal and interest; place; manner

Sec. 81. The agency may provide for the payment of the principal and interest of bonds at any place within or without the State of California, and in specified coin or currency of the United States.

(Stats.1959, c. 2139, p. 5104, § 81.)

§ 96-82. Date of bonds; serial or sinking fund bonds; maturity

Sec. 82. Bonds shall bear dates prescribed by the agency. Bonds may be serial bonds or sinking fund bonds with such maturities as the agency may determine. No bond by its terms shall mature in more than 50 years from its own date and, in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

(Stats.1959, c. 2139, p. 5104, § 82.)

§ 96-83. Public or private sale of bonds; terms and conditions

Sec. 83. Bonds may be sold at either public or private sale. The agency may fix terms and conditions for the sale or other disposition of any authorized issue of bonds.

(Stats.1959, c. 2139, p. 5104, § 83.)

§ 96-84. Costs and expenses of issuance and sale of bonds; interest; payment

Sec. 84. All costs and expenses incident to the issuance and sale of bonds may be paid out of the proceeds of the sale of the bonds. Interest on bonds may be paid out of the proceeds of the sale of the bonds during the actual construction of any works for the acquisition, construction or completion of

which the bonds have been issued, and for a period of not to exceed two (2) years thereafter as provided for in the indenture.

(Stats.1959, c. 2139, p. 5105, § 84.)

§ 96-85. Revenues of works as security for bonds and interest; lien

Sec. 85. The agency may provide that the bonds and the interest thereon shall be secured by all or by part of revenues of a conservation works upon the basis of which revenue bonds are issued or authorized to be issued, and shall constitute such lien upon the revenues of such conservation works as may be provided for in the indenture.

(Stats.1959, c. 2139, p. 5105, § 85.)

§ 96-86. Temporary or interim bonds, certificates or receipts

Sec. 86. Pending the actual issuance or delivery of revenue bonds, the agency may issue temporary or interim bonds, certificates or receipts of any denominations whatsoever, and with or without coupons, to be exchanged for definitive bonds when ready for delivery.

(Stats.1959, c. 2139, p. 5105, § 86.)

§ 96-87. Replacement of lost, destroyed or mutilated bonds or coupons

Sec. 87. The agency may provide for the replacement of lost, destroyed or mutilated bonds, or coupons.

(Stats.1959, c. 2139, p. 5105, § 87.)

§ 96-88. Tax exemption of bonds

Sec. 88. Bonds issued pursuant to the provisions of this act and the interest or income therefrom are exempt from all taxation in this State other than gift, inheritance and estate taxes.

(Stats.1959, c. 2139, p. 5105, § 88.)

Library References

Taxation Ⓒ218.

WESTLAW Topic No. 371.

C.J.S. Taxation § 260.

§ 96-89. Bonds as legal investments

Sec. 89. Bonds issued and sold pursuant to the provisions of this act are legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings trust companies, the state school funds, and any public or private funds which may be invested in county, municipal or school district bonds, and may be deposited as security for the performance of any act whenever the bonds of any county, municipality or school district may be so deposited.

(Stats.1959, c. 2139, p. 5105, § 89.)

Library References

Trusts § 217.3(3).
WESTLAW Topic No. 390.
C.J.S. Trusts § 325.

§ 96-90. Funding or refunding revenue bonds; issuance; sale or exchange

Sec. 90. The agency may provide for the issuance, sale or exchange of refunding revenue bonds for the purpose of redeeming or retiring any revenue bonds issued by the agency. All provisions of this act applicable to the issuance of revenue bonds are applicable to the funding revenue bonds or refunding revenue bonds and to the issuance, sale or exchange thereof.

(Stats.1959, c. 2139, p. 5105, § 90.)

§ 96-91. Funding or refunding revenue bonds; amount; payment of expenses

Sec. 91. Funding or refunding revenue bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be funded or refunded thereby, and in addition for the payment of all expenses incident to the calling, retiring or paying of such outstanding bonds, and the issuance of such funding or refunding revenue bonds. These expenses include the difference in amount between the par value of the funding or refunding revenue bonds and any amount less than par for which the funding or refunding revenue bonds are sold, any amount necessary to be made available for the payment of interest upon such funding or refunding revenue bonds from the date of sale thereof to the date of payment of the bonds to be funded or refunded or to the date upon which the bonds to be funded or refunded will be paid pursuant to the call thereof or agreement with the holders thereof, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing thereon to the date of the call or retirement.

(Stats.1959, c. 2139, p. 5105, § 91.)

§ 96-92. Negotiability of bonds

Sec. 92. All bonds issued under the provisions of this act are negotiable instruments, except when registered in the name of a registered owner.

(Stats.1959, c. 2139, p. 5106, § 92.)

§ 96-93. Resolution of board declaring purpose for use of bond proceeds and maximum amount of bonds; amendment

Sec. 93. Before issuing any revenue bond or bonds pursuant to the provisions of this act, the board shall by resolution declare the purpose for which the proceeds of the bonds proposed to be issued shall be expended and shall specify the maximum amount of bonds to be issued or sold for such purpose, and bonds shall not be issued or sold for such purpose in an amount exceeding such specified maximum except with the consent of the bondholders, pursuant to amendment or modification of an indenture, as provided in Section 74 of this

act. Nothing in this section shall prevent the board from amending such resolution prior to the issuance of bonds authorized thereby to increase or decrease the maximum amount of bonds to be issued or sold.

(Stats.1959, c. 2139, p. 5106, § 93.)

§ 96-94. Insurance against loss of revenue

Sec. 94. The agency may insure against loss of revenues from any cause whatsoever and the proceeds of any such insurance shall be used solely for the payment of bonds and the interest thereon. The agency may provide an indenture for the carrying of public liability or property damage insurance or insurance against loss by fire or other hazards or any other insurance in amount or in such character as it shall determine, and for the payment of the premiums thereon.

(Stats.1959, c. 2139, p. 5106, § 94.)

§ 96-95. Indenture agreement; payment of bond proceeds to county treasurer; construction fund; disbursements

Sec. 95. The agency may provide in an indenture that the proceeds from the sale of all revenue bonds authorized under this act shall be paid direct to the county treasurer designated by the agency as the fiscal agent or depository of the district, to be held in a separate account to be designated the "construction fund" and to be disbursed in the manner and upon the conditions provided in the indenture for the acquisition, construction and completion of the project, including the payment of the cost of all surveys, preparation of plans and specifications, and the payment of all architectural, engineering, legal and administrative costs, and in addition for the payment of all costs and expenses of and incident to the formation of the district and the issuance and sale of bonds and the payment of interest due or to become due on the bonds during the period of actual construction, and for such further period as may be specified in the indenture for the issuance of the bonds not exceeding two (2) years after the period of construction.

(Stats.1959, c. 2139, p. 5106, § 95.)

§ 96-96. Investment of moneys in construction fund

Sec. 96. Moneys in any construction fund may be invested as the agency in its sole discretion shall determine, subject only to such limitations as may be provided in an indenture providing for the issuance of revenue bonds.

(Stats.1959, c. 2139, p. 5106, § 96.)

§ 96-97. Surplus; disposition; use

Sec. 97. After all of the revenue bonds shall have been fully paid and discharged, or provision for their payment and discharge irrevocably made, any surplus moneys in the construction fund shall, subject to the limitations and restrictions in any indenture providing for the issuance of the revenue bonds,

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become and be the property of the agency, and be used by the agency for any lawful purpose.

(Stats.1959, c. 2139, p. 5107, § 97.)

§ 96-98. Action to test validity of bonds, tax levy or contract

Sec. 98. An action to determine the validity of bonds, levy of a special assessment or a contract may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In any such action all findings of fact or conclusions of the board upon all matters shall be conclusive unless the action was instituted within six months after the finding or conclusion was made.

(Stats.1959, c. 2139, p. 5107, § 98. Amended by Stats.1961, c. 1484, p. 3334, § 1.)

Cross References

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

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

Service of summons by publication, see Code of Civil Procedure § 415.50.

Library References

Declaratory Judgment Ⓒ211.

WESTLAW Topic No. 118A.

C.J.S. Declaratory Judgment § 78.

§ 96-99. Effect upon municipalities, districts or other agencies

Sec. 99. Neither the establishment of the agency nor any provisions of this act shall affect, restrict nor supersede the existence, property, right, or power of any municipality, public district, or public agency now or hereafter established in or partially within the limits of the agency for the purpose of flood control, reclamation, conservation, storage, distribution, sale, use, or development of water. The Legislature, because of conditions special to the county, hereby expressly declares its intent to permit within the limits of the El Dorado County Water Agency, the existence of more than one district, municipality or combination thereof, having similar powers over similar territory in regard to flood control, reclamation and water conservation, storage, distribution, sale, use or development.

(Stats.1959, c. 2139, p. 5108, § 99.)

§ 96-100. Vested rights

Sec. 100. Neither the formation of the agency nor this act shall impair the vested right of any person, association, corporation, municipality or public district in or to any water or the use thereof.

(Stats.1959, c. 2139, p. 5108, § 100.)

§ 96-101. Action to test validity of existence of agency

Sec. 101. The agency, in order to determine the legality of its existence, may institute a proceeding therefor in the Superior Court of this State, in and for the County of El Dorado, by filing with the clerk of said county a complaint

setting forth the name of the agency, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal agency formed under this act. The summons in such proceeding shall be served by publishing a copy thereof once a week for four (4) weeks in a newspaper of general circulation published in the 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 the State, any property owner or resident in said agency, 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 agency and shall be served upon the district attorney before being filed in such proceeding. Such proceeding is hereby declared to be a proceeding in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever, including the agency and the State of California.

(Stats.1959, c. 2139, p. 5108, § 101.)

Cross References

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

Service of summons by publication, see Code of Civil Procedure § 415.50.

Library References

Declaratory Judgment Ⓒ204.

WESTLAW Topic No. 118A.

C.J.S. Declaratory Judgment § 88.

§ 96-102. Dissolution

Sec. 102. The agency may be dissolved in the manner provided for the dissolution of districts by Chapter 4, commencing at Section 58950, of Division 1 of Title 6 of the Government Code, and the agency shall be considered a district within the meaning of all the provisions of said chapter.

(Stats.1959, c. 2139, p. 5108, § 102.)

§ 96-103. Legislative finding and declaration

Sec. 103. The Legislature hereby finds that water problems in the county require county-wide water conservation, flood control and development of water resources; that these problems are not general or state-wide; that the county for many years has had made investigations and engineering surveys of the county's water resources by private, public and United States engineers; that county water districts, municipalities, and water conservation districts now exist within portions of the county, have acquired property and works, developed a limited water supply, and have incurred indebtedness, but have been and are unable alone to economically develop an adequate water supply and control the floods of said county and for such reason it is necessary to have a political entity coextensive with the geographical limits of the entire county; that the county cannot be supplied with water from a common source or by a

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common system of works; that investigation having shown conditions in said county to be peculiar to it. It is, therefore, hereby declared that a general law cannot be made applicable to said county and that the enactment of this special law is necessary for the conservation, development, control and use of said water for the public good and for the protection of life and property therein. (Stats.1959, c. 2139, p. 5108, § 103.)

§ 96-104. Partial invalidity

Sec. 104. If any provision of this act is declared unconstitutional or invalid for any reason, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

(Stats.1959, c. 2139, p. 5109, § 104.)

Library References

Statutes Ⓒ64(2).
WESTLAW Topic No. 361.
C.J.S. Statutes § 96 et seq.