

Effective: [See Text Amendments]

West's Annotated California Codes Currentness

Water Code Appendix (Refs & Annos)

→ Chapter 68. Marin County Flood Control and Water Conservation District Act (Refs & Annos)

§ 68-1. Short title

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

Effective: [See Text Amendments]

§ 68-2. Creation; name; territory; district

Sec. 2. A flood control district is hereby created to be called the Marin County Flood Control and Water Conservation District. Said district shall consist of all the territory of the County of Marin lying within the exterior boundaries of said county. As used in this act "district" means the Marin County Flood Control and Water Conservation District.

Effective: [See Text Amendments]

§ 68-3. Zones; subzones; establishment; projects; proceedings

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

Proceedings, including a hearing and determination of protests, for the establishment, amendment, division or superimposition of any zone or the establishment of any project, the estimated cost of which exceeds ten thousand dollars (\$10,000), shall be conducted in the manner prescribed in Section 11 of this act. As an alternative to, and in addition to, the proceedings prescribed in Section 11 of this act for the establishment, annexation, division or superimposition of any zone or any project, the estimated cost of which exceeds ten thousand dollars (\$10,000), the board of supervisors of the district may submit proposals for the establishment, annexation, division or superimposition of any zone or any project, the estimated cost of which exceeds ten thousand dollars (\$10,000), to the registered voters residing within the zone, the territory of a proposed zone or the territory to be annexed, as the case may be, which election shall be called and held as nearly as practicable in the manner provided in Section 13.

Proceedings for the establishment, amendment, division, or superimposition of zones may be conducted concurrently with and as a part of proceedings for the instituting of projects relating to such zones.

After a zone has been formed, a subzone or subzones may be formed for areas less than the zone, and a project or projects adopted therefor. Subzones and projects therefor shall be formed in the manner provided in this section and Section 11 of this act. Any subzone so formed shall be entitled with the zone number and a letter of the alphabet.

Effective: [See Text Amendments]

§ 68-3.1. Subzones; application of law relating to zones; special bond election; subzone advisory board

Sec. 3.1. All of the provisions of this act relating to zones are applicable to subzones formed under Section 3 of this act, and all of the powers and duties conferred or imposed by this act with respect to zones, including the powers and duties to levy and collect taxes or assessments and to incur indebtedness and to issue and sell bonds, shall apply with respect to subzones.

Whenever a special bond election is called and held under Section 13 of this act, or as authorized by Section 24 of this act, with respect to any subzone it shall be called and held only within such subzone for which the bonded indebtedness is proposed to be incurred and need not be called or held in any of the remaining territory of the zone or participating zone of which such subzone is a part.

The zone advisory board provided for in Section 6.2 of this act shall constitute the subzone advisory board.

Effective: [See Text Amendments]

§ 68-3.5. Zones; inclusion of incorporated area; consent of city

Sec. 3.5 Before acquiring authority to proceed with the annexation to or establishment of any zone the exterior boundaries of which will include any land lying within the exterior boundaries of any chartered or incorporated city within the district, the board of supervisors shall first obtain the concurrence of such city to conduct such proceedings, such concurrence to be evidenced by a resolution or ordinance adopted by a majority of the members of the city council of such city, or by a vote of a majority of the qualified electors residing in such city or portion thereof to be included in said zone voting at any regular or special election on said proposition; such concurrence may be upon any conditions imposed by the city and accepted by the board of supervisors and said election shall in all particulars be held as provided by law for holding a municipal election in said city and the cost thereof shall be a city charge.

Effective: [See Text Amendments]

§ 68-3.6. Zones; exclusion of unincorporated area; majority protest

Sec. 3.6. The unincorporated area of a proposed zone shall be excluded if written protests are filed with the board, signed by 50 percent of the registered voters residing in the unincorporated area to be included in the proposed zone, or signed by holders of title to real property or assessable rights therein equal in value to more than one-half of the assessed value of the real property in the unincorporated area of the proposed zone with the determination of who may sign such protests to be made in the same manner as are determinations of who may sign the protests to establishment of zones or projects under Section 11 of this act.

Effective: [See Text Amendments]

§ 68-4. Objects and purposes

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

and to engage in recreation activities incidental to and in connection with said purposes.

Effective: [See Text Amendments]

§ 68-5. Nature of district; powers

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

1. To have perpetual succession.
2. To sue and be sued in the name of said district.
3. To adopt a seal.
4. To acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and to hold, use, enjoy, sell, let and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements and privileges, and to construct, maintain, alter and operate any and all works or improvements, within or without the district, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to complete, extend, add to, alter, remove, repair or otherwise improve any works, or improvements, or property acquired by it as authorized by this act. Construction or improvement of existing facilities may involve landscaping, related recreational activities, and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.
5. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or of any zone or zones affected; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside of the district, water for any purpose useful to the district; to commence, maintain, intervene in, defend or compromise, in the name of the district, or otherwise, and to assume the costs and expenses of, any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interest of the district.
6. To control the flood and storm waters of said district and the flood and storm waters of streams that have their sources outside of said district, but which streams and the floodwaters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes of said district by spreading, storing, retaining and causing to percolate into the soil within or without said district, 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, harbors, public highways, life and property in said district, and the watercourses outside of the district of streams flowing into the district, and to prevent waste of water or diminution of the water supply in, or exportation of water from said district, and to obtain, retain and reclaim drainage, storm, flood and other waters for beneficial use in said district; provided, that nothing in this act contained shall authorize the carrying out of any plan of improvement, the purpose of which is, or the effect of which will be to take water which flows in any watershed in said district and transport or sell same for use anywhere outside of the district when the water level of any gravel beds within the district is below the normal level and such water could reasonably be used to replenish the water level of said gravel beds; provided further, that none of the provisions of this act shall preclude the exercise by any other political subdivision that may

now or hereafter exist, wholly or in part, within the district from exercising its powers, although such powers may be of the same nature as the powers of said district. Any such other political subdivision may, by written agreement with the district, provide for the use, or joint use, of property or facilities in which any such other political subdivision has an interest, or for the use, or joint use, of property or facilities in which said district has an interest.

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

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

9. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses to acquire and to hold, the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Marin County Flood Control and Water Conservation District; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit of the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual, of any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Marin County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement.

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

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

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

13. To exercise the right of eminent domain, within or without said district, to take any property necessary to carry out any of the objects or purposes of this act. The district in exercising such power shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction or relocation of any structure, railways, mains, pipes, conduits, wires, cable, poles, of any public utility which is required to be moved to

a new location. No right shall exist in said district to take by proceedings in eminent domain any property, including water rights, appropriated to public use by any existing city and county or public district. Nothing in this act contained shall be deemed to authorize said district, or any person or persons to divert the waters of any river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein unless compensation therefor be first provided in the manner prescribed by law.

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

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of such district which shall not interfere, or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district.

15. In addition to its other powers, the district shall have the power to preserve and enhance its properties, including related recreational enhancement, and, upon a finding by the board of supervisors that the acquisition is necessary for such purposes, to acquire, preserve, and enhance lands or interests in lands within the County of Marin contiguous to its properties, for the protection and preservation of the scenic beauty and natural environment for such properties or such lands.

Effective: [See Text Amendments]

§ 68-6. Supervisors; board; ordinances and resolutions

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

All ordinances, resolutions and other legislative acts for said district shall be adopted by said board of supervisors, and certified to, recorded and published, in the same manner, except as herein otherwise expressly provided, as are ordinances, resolutions or other legislative acts for the County of Marin.

Effective: [See Text Amendments]

§ 68-6.1. Advisory commission

Sec. 6.1. The board may appoint a commission which, if appointed, shall consist of seven members with at least five, but not more than six, members from incorporated cities within the County of Marin and no more than one member from any one city to assist and advise said board in the institution of projects or works of improvement, and the board may by ordinance provide for compensation for services and payment of the actual necessary expenses incurred by said members in the performance of official duties under this act, payable from the funds of the district. Members of the advisory commission shall serve at the pleasure of the board.

Effective: [See Text Amendments]

§ 68-6.2. Zone advisory board; report on proposed action

Sec. 6.2. Upon the formation of each zone pursuant to the provisions of this act, the board of supervisors shall appoint a zone advisory board composed of either five or seven resident electors of said zone. Said zone advisory board shall be consulted by the board of supervisors or the commissioners of the district in all matters affecting such

zone and no action relating to such matters shall be taken by either or both of said bodies until a report on the proposed action shall have been made by the zone advisory board. Said report by said zone advisory board shall be made within 30 days after the mailing to each of its members of a statement of proposed zone action or after a report by the district's staff to its members in open public meeting, and request for a report thereon by said zone advisory board. Said report may contain majority and minority opinions. If such report is not made within said 30-day period, the commissioners or the board of supervisors may proceed with the contemplated action notwithstanding the failure to file such report.

Effective: [See Text Amendments]

§ 68-6.3. Interzone loans

Sec. 6.3. The board may transfer funds between the respective zones for district purposes on a temporary basis.

The board shall determine the prevailing interest rate which shall be borne by the borrowing zone. Payment of both principal and interest shall be made by the borrowing zone to the zone whose funds were loaned in the fiscal year two years succeeding the fiscal year in which the temporary transfer was made, or sooner, if financial conditions permit.

Effective: [See Text Amendments]

§ 68-7. Officers

Sec. 7. The district attorney, county surveyor, county road commissioner, county assessor, county tax collector, county clerk, county auditor, purchasing agent and county treasurer of the County of Marin, and their successors in office, and all their assistants, deputies, clerks and employees, and all other officers of said Marin County, their assistants, deputies, clerks and employees, shall be ex officio officers, assistants, deputies, clerks and employees, respectively, of said Marin County Flood Control and Water Conservation District, and shall respectively perform, unless otherwise provided by the board, the same various duties for said district as for said Marin County, in order to carry out the provisions of this act.

All such officers, deputies, clerks and employees shall receive their actual necessary expenses in the performance of official duties under this act payable from the funds of the Marin County Flood Control and Water Conservation District.

Effective: [See Text Amendments]

§ 68-8. Administrative regulations; chairman; secretary; employees; civil service

Sec. 8. The board shall have power to make and enforce all needful rules and regulations for the administration and government of the district, and in addition to the officers and employees herein otherwise prescribed, the board may in its discretion appoint a chairman, a secretary and such other officers, agents and employees for the board or district as in its judgment may be deemed necessary, prescribe their duties and fix their compensation. Such officers, agents and employees shall be appointed under and pursuant to any civil service rules and regulations of the County of Marin whether heretofore or hereafter adopted.

Any civil service commission or similar board or officer of the County of Marin, and the civil service department of said county shall be ex officio the civil service commission and ex officio the civil service department of the Marin County Flood Control and Water Conservation District and said commission and the members of said department shall perform all of the duties herein prescribed without additional compensation except that the district shall pay for any necessary additional expenses incurred by reason of the performance of said additional duties for said district.

Effective: [See Text Amendments]

§ 68-9. Repealed by Stats.1974, c. 713, p. 1592, § 7

Effective: [See Text Amendments]

§ 68-10. Selection of projects

Sec. 10. The board shall determine which projects or works of improvement shall be carried out and shall determine, as to each project or work of improvement, that it is either:

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

Effective: [See Text Amendments]

§ 68-11. Institution of zone and joint zone projects; resolution; notice of hearing; protests; persons entitled to protest

Sec. 11. The board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to such zones or participating zones and may establish, amend, divide or superimpose zones. For the purpose of acquiring authority to proceed with any such project, the estimated cost of which exceeds ten thousand dollars (\$10,000), or establishment, amendment, division, or superimposition of a zone, the board shall adopt a resolution specifying its intention to undertake such project or zone establishment, amendment, division or superimposition, together with the engineering estimates of the cost of any project to be borne by the particular zone and in the case of participating zones the proportionate cost to be borne by each of the participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of said project or proposed zone. Notice of such hearing shall be given by publication pursuant to Section 6066 of the Government Code, in a newspaper of general circulation, circulated in such zone or each of said participating zones, if there be such newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to said hearing in five public places designated by the board, in such zone or territory of a proposed zone or in each of said participating zones. Said notice must designate a public place in such zone or territory of a proposed zone or in each of said participating zones where a copy or copies of the map or maps of said joint project may be seen by any interested person. Said map must be posted in each of said public places so designated in said notice at least two weeks prior to said hearing.

At the time and place fixed for the hearing, or at any time to which said hearing may be continued, the board shall consider all written and oral objections to the proposed project, or establishment, amendment, division or superimposition of a zone. Upon the hearing, the board may modify the proportionate cost of any project to be borne by each of the participating zones according to the benefits to be derived from the project by the participating zones. Upon the hearing, the board may modify the boundaries of the proposed zone, as set forth in the resolution of intention to establish, annex to, divide, or superimpose the zone, by excluding therefrom any land which would not be benefited by inclusion in the zone; the boundaries shall not be modified to include any land which is neither described in the resolution of intention nor formerly within the boundaries of a zone. At the conclusion of the hearing the board may abandon the proposed project or plan or proceed with the same, unless prior to the conclusion of said hearing a written protest against the proposed project or plan signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, representing one-half or more of the assessed valuation of the real property within such zone or within any of the participating zones for which said project was initiated or within the territory to be included in the proposed zone or within the territory to be added to or subtracted from a zone, be filed with the board, in which event further proceedings relating to such project or plan

must be suspended for not less than six months following the date of the conclusion of said hearing, or said proceeding may be abandoned in the discretion of the board.

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

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

Where real property appears to be owned in common or jointly or by a partnership, or where letters of representatives of decedents, minors or guardians are joint, only one of the owners or representatives or partners may sign the protest for all joint owners or representatives or partners; provided, the party claiming the right to protest for all produces the written consent of his coowners or representatives or partners so to do, duly acknowledged by the consenting coowners or representatives or partners in the manner that deeds of real property are required to be acknowledged to entitle such deeds to be recorded in the recorder's office of the county except that if the property jointly held is held by husband and wife and occupied by them as a dwelling, if the other spouse consents, the protest may be signed by either spouse without producing written evidence of the other's consent.

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

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

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

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

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

Effective: [See Text Amendments]

§ 68-11.1. Exclusive procedure

Sec. 11.1. The provisions of Section 11 of this act shall be exclusive in determining the proper procedure for the institution of projects, the estimated cost of which exceeds ten thousand dollars (\$10,000), under this act, any other

provision of law notwithstanding.

Effective: [See Text Amendments]

§ 68-11.2. Flood control facilities; tax rate; election

Sec. 11.2. The board of supervisors may pursuant to Section 11 establish a zone for the sole purpose of maintaining flood control facilities. In such event, the board may specify a maximum tax rate to be levied in the zone. If such tax rate is thereafter increased, and 10 percent of the electors in the zone file a written protest to the increase within 30 days following the board action, an election thereon shall be held and conducted as nearly as practicable in the manner provided in Section 13. In such event, the tax rate shall not be increased unless the increase is approved by a majority of the persons casting votes at such election.

Effective: [See Text Amendments]

§ 68-12. Taxes and assessments

Sec. 12. The board shall have power, in any year:

1. To levy ad valorem taxes or assessments upon all property in the district to pay the general administrative costs and expenses of the district, and to carry out any of the objects or purposes of this act of common benefit to the district, including, but not limited to, the preparation of master plans for specific areas within the district; provided, however, that said ad valorem tax or assessment shall not exceed five cents (\$0.05) on each one hundred dollars (\$100) of assessed valuation; and
2. To levy ad valorem taxes or assessments upon all property in each or any of said zones and participating zones to pay the cost and expenses of carrying out, constructing, maintaining, operating, extending, repairing or otherwise improving any or all works or improvements established or to be established within or on behalf of said respective zones, according to the benefits derived or to be derived by said respective zones.
3. The aggregate of all ad valorem taxes or assessments levied under this act for any one fiscal year shall not exceed one dollar (\$1) on each one hundred dollars (\$100) of assessed valuation of the taxable property in said zones exclusive of any tax levied to meet the bonded indebtedness of any of said zones and the interest thereon, and exclusive of any tax levied pursuant to subdivision 1 of this Section 12.
4. Said taxes or assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from said district taxes or assessments shall be paid into the county treasury to the credit of said district, or the respective zones thereof, and the board shall have the power to control and order the expenditure thereof for said purposes; provided, however, that no revenues, or portions thereof, derived in any zone from the taxes or assessments levied under the provisions of subdivision 2 or 3 of this section shall be expended for constructing, maintaining, operating, extending, repairing or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside such zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, such zones will become, and shall be referred to as, participating zones.

Effective: [See Text Amendments]

§ 68-12.1. Applicability of improvement acts; definitions; exercise of powers; necessity of filing and recording assessment and diagram

Sec. 12.1. The Improvement Act of 1911, [FN1] the Municipal Improvement Act of 1913 [FN2] and the Improvement Bond Act of 1915 [FN3] are applicable to the district, and as applied to the district the following terms used in said acts shall mean:

- (a) "City council" and "council" mean the Board of Supervisors of Marin County.
- (b) "City" and "municipality" mean the district.
- (c) "Clerk" and "city clerk" mean the county clerk.
- (d) "Superintendent of streets," "street superintendent" and "city engineer" mean the engineer of the district, or any person appointed to perform such duties.
- (e) "Tax collector" means county tax collector.
- (f) "Treasurer" and "city treasurer" mean county treasurer.
- (g) "Right of way" means any parcel of land through which a right of way is acquired by the district for the purpose of constructing and maintaining any facility of the district.

The rights, powers, duties, responsibilities and jurisdiction conferred upon officers and agents of cities by the above specified acts shall be exercised or assumed, as the case may be, by the respective boards, officers and agents of the district. The improvements authorized to be constructed by these specified acts are restricted to those permitted to be constructed or acquired by Section 5. No assessment or bond hereafter issued or levied pursuant to any of said acts shall become a lien and no person shall be deemed to have notice thereof until a certified copy of said assessment and the diagram thereto attached shall be recorded in the office of the county recorder if the improvement district or any part thereof is in unincorporated territory and filed in the office of the superintendent of streets of the city or cities if the improvement district or any part thereof is in incorporated territory.

[FN1] Streets and Highways Code § 5000 et seq.

[FN2] Streets and Highways Code 10000 et seq.

[FN3] Streets and Highways Code § 8500 et seq.

Effective: [See Text Amendments]

§ 68-13. Bonds; resolution; special election; irregularities; vote required

Sec. 13. (1) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work or improvement in any zone or zones, the board may by resolution, determine and declare the respective amounts of bonds necessary to be issued in each zone in order to raise the amount of money necessary for each work or improvement and the denomination and the maximum rate of interest of said bonds. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the Office of the Recorder of Marin County within five (5) days after its issuance. From and after said filing of said copy of said resolution the board shall be deemed vested with the authority to proceed with the bond election.

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

(3) Said board shall call such special bond election by ordinance and not otherwise and submit to the qualified electors of said zone or participating zones, the proposition of incurring a bonded debt in said zone or participating zones in the amount and for the purposes stated in said resolution and shall recite therein the objects and purposes

for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief, general description of such objects and purposes, and refer to the recorded copy of such resolution adopted by said board, and on file for particulars; and said ordinance shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and what part or installment of such indebtedness shall be paid each and every year of the term, which shall not exceed 40 years, the principal and the total amount of interest to be paid over the entire term of such indebtedness, and the maximum rate of interest to be paid on said indebtedness, and shall fix the date on which such special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on such indebtedness shall not exceed 7 percent per annum. For the purpose of said election, said board shall in said ordinance establish special bond election precincts within the boundaries of each zone and participating zone and may form election precincts by consolidating the precincts established for general elections in said district to a number not exceeding six general precincts for each such special bond election precinct, and shall designate a polling place and appoint one inspector, one judge and one clerk for each of such special bond election precincts.

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

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

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

Any defect or irregularity in the proceedings prior to the calling of such special bond election shall not affect the validity of the bonds authorized by said election. Where a project affects a single zone only, if at such election two-thirds (2/3) of the votes cast in said zone on the proposition of incurring a bonded indebtedness are in favor thereof, then bonds for such zone for the amount stated in such proceedings shall be issued and sold as in this act provided. Where the incurring of bonded indebtedness by participating zones is to be determined at such election, no bonds for any such participating zones shall be issued or sold unless two-thirds (2/3) of the votes cast on the proposition in each such participating zone are in favor of incurring the bonded indebtedness to be undertaken by such zone.

Effective: [See Text Amendments]

§ 68-14. Bonds; form; denominations; signatures

Sec. 14. The board shall, subject to the provisions of this act, prescribe by resolution the form of said bonds, which must include a designation of the zone or participating zone affected, and of the interest coupons attached thereto. Said bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date, and at a place to be fixed by said board, and designated in such bonds, together with the interest on all sums unpaid on such date until the whole of said indebtedness shall have been paid.

The bonds shall be issued in such denomination as the board may determine, except that no bonds shall be of a less denomination than one hundred dollars (\$100), nor of a greater denomination than five thousand dollars (\$5,000), 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 7 percent per annum, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the auditor of said district, and the seal of said district shall be affixed thereto by the clerk of the board. The interest coupons of said bonds shall be numbered consecutively and signed by the said auditor by his engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the

bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such bonds and coupons, and signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery of the bonds.

Effective: [See Text Amendments]

§ 68-15. Bonds; sale

Sec. 15. The board may issue and sell the bonds of any such zones authorized as hereinbefore provided at not less than par value, and the proceeds of the sale of such bonds shall be placed in the treasury of the County of Marin to the credit of said district and the respective participating zones thereof, for the uses and purposes of the zone or zones voting said bonds; said county treasurer, and said respective zone funds shall be applied exclusively to the purposes and objects mentioned in the ordinance calling for such special bond election as aforesaid, subject to the provisions in this act contained. Payments from said zone funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon the funds of the County of Marin.

Effective: [See Text Amendments]

§ 68-16. Bonds; lien

Sec. 16. Any bonds issued under the provisions of this act shall be a lien upon all property of the zone of issuance, and the lien for the bonds of any issue shall be a preferred lien to that of any subsequent issue. Said bonds and the interest thereon shall be paid by revenue derived from an annual tax or assessment upon all property within said zone and all property in said zone shall be and remain liable to be taxed or assessed for such payments as hereinafter provided. No zone nor the property therein shall be liable for the bonded indebtedness of any other zone, nor shall any moneys derived from taxation or assessments in any of the several zones be used in payment of principal or interest or otherwise of the bonded indebtedness chargeable to any other zone.

Effective: [See Text Amendments]

§ 68-17. Bonds; tax or assessment for payments

Sec. 17. The board shall levy a tax or assessment each year upon all property in the zone 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 zones of issuance together with and not separately from taxes for county purposes, and when collected shall be paid into the county treasury of said Marin County to the credit of the zone of issuance, and be used for the payment of the principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer of said Marin County in the manner provided by law for the payment of principal and interest on bonds of said county.

Effective: [See Text Amendments]

§ 68-18. Taxes and assessments; law applicable

Sec. 18. The provisions of law of this State, prescribing the time and manner of levying, assessing, equalizing and collecting county property taxes, including the sale of property for delinquency, and the redemption from the sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act. All property exempt from taxation for county purposes under the provisions of the Revenue and Taxation Code of the State of California is exempt from taxation and assessment for the purposes of this act.

Effective: [See Text Amendments]

§ 68-19. Validation of district

Sec. 19. Notwithstanding Title 5, Division 2, Part 1, Chapter 8 of the Government Code, the Marin County Flood Control and Water Conservation District is validly created for the purposes of assessment and taxation. The creation of any zone in the Marin County Flood Control and Water Conservation District shall not be effective for purposes of assessment or taxation for the fiscal year 1953-1954 and shall not be effective for such purposes for any fiscal year thereafter unless the statement and map or plat required by Title 5, Division 2, Part 1, Chapter 8 of the Government Code are filed with the county assessor and the State Board of Equalization on or before the 1st of February of the year in which the assessments or taxes are to be levied. Until such time as the creation of any zone shall be effective for purposes of assessment or taxation, any tax or assessment levied by the board shall be levied at a uniform rate on all property in the Marin County Flood Control and Water Conservation District.

Effective: [See Text Amendments]

§ 68-19.5. Repealed by Stats.1974, c. 713, p. 1594, § 11

Effective: [See Text Amendments]

§ 68-20. Bonds; legal investments

Sec. 20. The bonds of the district issue for any zone thereof pursuant to this act, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may be law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts or municipalities in the State of California, such money or funds may be invested in the said bonds of said district issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by any law now or hereafter enacted be used as security for the performance of any act, such bonds of said district may be so used.

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

Effective: [See Text Amendments]

§ 68-21. Bonds; tax exemption; nature of district

Sec. 21. All bonds issued by said district under the provisions of this act shall be free and exempt from all taxation within the State of California. It is hereby declared that the district organized by this act is a reclamation district and an irrigation district within the meaning of Section 1 3/4 of Article XIII and Section 13 of Article XI of the Constitution of this State.

Effective: [See Text Amendments]

§ 68-22. Repealed by Stats.1984, c. 1128, § 115

Effective: [See Text Amendments]

§ 68-23. Improvements; conformity to report, plans, specifications, etc.

Sec. 23. 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 such work described in said report, shall be prohibited by law, or be rendered contrary to the best interests of the district by some change of conditions in relation thereto, subsequent to the date of filing the report, plans, specifications and map theretofore adopted, in which event the board of supervisors may order necessary changes made in such proposed work or improvements and may cause any plans and specifications to be made and adopted therefor.

Effective: [See Text Amendments]

§ 68-24. Additional bonds

Sec. 24. Whenever bonds have been authorized by any zone or participating zone of said district and said bonds have been issued as in this act authorized, and the board shall be resolution determine that additional bonds should be issued for carrying out the work of flood control, or for any of the purposes of this act, the board may again proceed as in this act provided, and submit to the qualified voters of said zone or participating zone, the question of issuing additional bonds in the same manner and with like procedure as hereinbefore provided, and all the above provisions of this act for the issuing and sale of such bonds, and for the expenditure of the proceeds thereof, shall be deemed to apply to such issue of additional bonds.

Effective: [See Text Amendments]

§ 68-25. Defeated bond proposal; waiting period before new election

Sec. 25. Should a proposition for issuing bonds for any zone or participating zones submitted at any election under this act fail to receive the requisite number of votes of the qualified electors voting at such election to incur the indebtedness for the purpose specified, the board shall not for six months after such election call or order another election in such zone or participating zone for incurring indebtedness and issuing bonds under the terms of this act for the same objects and purposes.

Effective: [See Text Amendments]

§ 68-26. Repeal or amendment; effect upon obligations

Sec. 26. The repeal or amendment of this act shall not in any way affect or release any of the property in said district or any zone thereof from the obligations of any outstanding bonds or indebtedness until all such bonds and outstanding indebtedness have been fully paid and discharged.

Effective: [See Text Amendments]

§ 68-26.1. Withdrawal of territory

Sec. 26.1. Notwithstanding any provisions of this act to the contrary, the withdrawal of all the area lying within the exterior boundaries of any chartered or incorporated city from the district may be effected by the vote of a majority of the qualified electors of said city voting at any regular or special election on the proposition to withdraw the area lying within such city from the district. Said election shall in all particulars be held as provided by law for holding a municipal election in said city and the cost thereof shall be a city charge. The city council shall cause the results of the election to be certified to the board of supervisors of the district and if a majority of the votes cast on the proposition to withdraw such area from the district are in favor thereof, thereupon the area lying within the exterior boundaries of such city shall no longer be a part of the district; provided, however, that the withdrawal of the area lying within the exterior boundaries of such city from the district shall not release the area so withdrawn from debts and obligations for or upon which it was liable or chargeable at the time such withdrawal was made; provided further, however, that any portion of a city which prior to its withdrawal from the district was included within the

boundaries of a flood control zone shall remain subject to taxes for the maintenance of improvements constructed within such zone prior to the withdrawal of the city from the district.

Effective: [See Text Amendments]

§ 68-26.2. Unincorporated territory; withdrawal

Sec. 26.2. Notwithstanding any provisions of this act to the contrary, the withdrawal of all the unincorporated area lying within the exterior boundaries of any zone may be effected by the vote of a majority of the holders of title to real property or assessable rights (which holders shall be determined from the last equalized assessment rolls) in the area seeking to withdraw at an election on the proposition to withdraw. The election shall be called and conducted by the board of supervisors whenever a petition signed by twenty-five percent (25%) of the holders of title to real property or assessable rights in the area seeking to withdraw is presented to the board of supervisors. The petition shall describe the zone from which withdrawal is sought, and request that an election shall be called and conducted on the proposition to withdraw. The election shall be called and conducted in the same manner as other special elections in the county. The board of supervisors shall canvass the returns of the election within 30 days after the election, and if a majority of the votes cast are in favor of the proposition to withdraw from the zone, then the board shall so find and declare. Thereupon such unincorporated area shall no longer be a part of the zone; provided, however, that the withdrawal of the area from the zone shall not release the area so withdrawn from debts and obligations for or upon which it was liable or chargeable at the time such withdrawal was made; provided further, however, that the area so withdrawn shall remain subject to taxes for the purpose of maintaining improvements constructed within the zone from which the area is withdrawn prior to such withdrawal.

Effective: [See Text Amendments]

§ 68-26.3. Dissolution of zone

Sec. 26.3. Dissolution of a zone may be effected in the same manner provided in this act for creation of a zone. Proceedings, including hearing and determination of protests for dissolution of a zone, shall be conducted in the manner prescribed in Section 11 of this act.

Effective: [See Text Amendments]

§ 68-27. Right of way over public lands

Sec. 27. There is hereby granted to Marin County Flood Control and Water Conservation District the right of way for the location, construction and maintenance of flood control channels, ditches, waterways, conduits, canals, storm dikes, embankments, and protective works in, over and across public lands of the State of California, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of such works and adjuncts or for the protection thereof. Whenever any selection of a right of way for such works or adjuncts thereto is made by the district the board thereof must transmit to the State Lands Commission, the Controller of the State and the recorder of the county in which the selected lands are situated, a plat of lands so selected, giving the extent thereof and the uses for which the same is claimed or desired, duly verified to be correct. If the State Lands Commission shall approve the selection so made, it shall endorse its approval upon the plat and issue to the district a permit to use such right of way and lands.

Effective: [See Text Amendments]

§ 68-28. Repealed by Stats.1975, c. 585, p. 1242, § 11

Effective: [See Text Amendments]

§ 68-29. Claims for money or damages; law governing; other claims; procedure

Sec. 29. Claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body, and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county.

Effective: [See Text Amendments]

§ 68-30. Property

Sec. 30. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in said district, and shall be held by said district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property, as herein provided; and said board may determine, by resolution duly entered in their minutes that any property, real or personal, held by said district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease or otherwise dispose of said property in the manner prescribed by law for such action by counties.

Effective: [See Text Amendments]

§ 68-31. Action to test validity of district

Sec. 31. The district formed under this act in order to determine the legality of its existence, may institute a proceeding therefor in the superior court of this State, in and for the County of Marin, by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal flood control district formed under the provisions of this act. The summons in such proceeding shall be served by publishing a copy thereof in said county pursuant to Section 6064 of the Government Code. Within thirty (30) days after proof of publication of said summons shall have been filed in said proceeding, the State, any property owner or resident in said district, or any person interested may appear as a defendant in said action by serving and filing an answer to said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district and shall be served upon the district attorney before being filed in such proceeding. Such proceeding is hereby declared to be a proceeding in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever, including the district and the State of California.

Effective: [See Text Amendments]

§ 68-32. Officers' and employees' bonds

Sec. 32. The board may require any officer or employee to give bond for the faithful performance of the duties of his office, in such penal sum as may be fixed by the board. When deemed expedient by the board, a master bond may be used which shall provide coverage on more than one officer, employee or agent of the district who is required by the district to give bond. Such bond shall be in the form and for the term which is approved by the board. The premium for such bond shall be paid by the district.

Effective: [See Text Amendments]

§ 68-33. Bonds; proceeds of sale; temporary investment

Sec. 33. Notwithstanding any provisions of this act to the contrary, in the event the proceeds from the sale of bonds

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

Effective: [See Text Amendments]

§ 68-34. Liberal construction

Sec. 34. This act, and every part thereof, shall be liberally construed to promote the object thereof, and to carry out its intents and purposes.

Effective: [See Text Amendments]

§ 68-35. Partial invalidity

Sec. 35. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Effective: [See Text Amendments]

§ 68-36. Acquisition, construction and completion of improvements by special assessment proceedings

Sec. 36. In addition to all other powers granted under this act, the district shall have the right to acquire, construct and complete any improvements authorized hereunder by special assessment proceedings. The Improvement Act of 1911 and the Improvement Bond Act of 1915 are applicable to the district and the powers and duties conferred by those acts upon the boards, officers and agents of cities, shall be exercised by the governing board, officers and agents of the district, provided that the improvements authorized to be constructed or acquired by this section are limited to those permitted to be constructed or acquired by the district under the provisions of this act.

Effective: [See Text Amendments]

§ 68-37. Errors and mistakes; effect upon validity of proceedings

Sec. 37. No proceeding under this act shall be invalidated or affected by any inadvertent error, mistake, or departure from the provisions of this act regarding posting, publishing, or procuring the publication or posting of any notice, resolution, order or other matter, or the content of such notice, resolution, or order, without a showing of substantial harm to the person or persons affected by the deviation in the requirements and evidence that a different result would have ensued were it not for the inadvertence.

Current through Ch. 8 of 2007 Reg.Sess. urgency legislation
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