

APPENDIX

II. HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT

[Stats 1970 ch 1283. Amended Stats 1970 ch 1448; Stats 1972 ch 213, effective June 30, 1972; Stats 1974 ch 1191; Stats 1975 ch 587; Stats 1976 ch 1040; Stats 1977 ch 1227.]

An act to provide for the establishment of the Humboldt Bay Harbor, Recreation, and Conservation District; to provide for the calling of elections therefor; describing the powers, duties, and functions thereof, authorizing the district to borrow money and issue bonds for district purposes; to provide means of raising revenues for the operation, maintenance and bond redemption of the district; and to provide for the transfer to such district of tide and submerged lands.

Chapter

1. General Provisions. § 1
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CHAPTER 1

General Provisions

Section

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§ 1. Title

This act shall be known and may be cited as the Humboldt Bay Harbor, Recreation, and Conservation District Act. The district created in accordance with the provisions of this act is a public corporation created for the purposes set forth herein.

Added Stats 1970 ch 1283.

§ 2. Declaration of policy

It is hereby declared to be the policy of the State of California to develop the harbors and ports of this state for multiple purpose use for the benefit of the people. A necessity exists within Humboldt County for such development. Because of the separate cities and unincorporated populated areas in the area hereinafter described, only a specially created district can operate effectively in developing the harbors and port facilities, and in developing and protecting the natural resources of the area. Because of the unique problems presented by this area, and the facts and circumstances relative to the development of harbor and port facilities, and to the development and protection of the natural resources of the area, the adoption of a special act and the creation of a special district is required.

Added Stats 1970 ch 1283.

Collateral References:
Cal Jur 3d Statutes § 8.

§ 3. Definitions

For the purposes of this act the following words shall have the following meanings;

- (a) "District" shall mean the Humboldt Bay Harbor, Recreation, and Conservation District.
- (b) "Board" or "board of commissioners" shall mean the Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District.
- (c) "County" shall mean the County of Humboldt.
- (d) "Board of supervisors" shall mean the Board of Supervisors of Humboldt County.
- (e) "Area" shall mean the territory within the district's jurisdiction.
- (f) "Humboldt Bay" or "Humboldt Bay Harbor" shall mean the land and overlying waters, to the limit of tidal action, of what is commonly known as Humboldt Bay, including the land and overlying waters of all streams and estuaries tributary thereto to the limit of tidal action.

Added Stats 1970 ch 1283.

§ 4. District powers and authority

A district for the acquisition, construction, maintenance, operation, development, and regulation of harbor works and improvements, including rail, water, and air terminal facilities, for the development, operation, maintenance, control, regulation, and management of Humboldt Bay upon the tidelands and lands lying under the inland navigable waters of Humboldt Bay, for the promotion of national and international commerce, navigation, fisheries, and recreation thereon, and for the development and protection of the natural resources of the area, may be established or organized and governed as provided in this act and it may exercise the powers expressly granted herein.

Anything herein to the contrary notwithstanding, the powers and authority granted herein shall not apply to public utilities operated under the jurisdiction of the Public Utilities Commission of the State of California.

Added Stats 1970 ch 1283. Amended Stats 1984 ch 1043 § 1.

§ 5. Territory of district

The territory to be embraced in the district shall include all of the incorporated areas of the Cities of Arcata and Eureka, and such incorporated and unincorporated territory in the county as is approved by the Local Agency Formation Commission, and the Board of Supervisors of the County of Humboldt, and by the voters of the proposed district at a district formation election.

Added Stats 1970 ch 1283. Amended Stats 1972 ch 213, effective June 30, 1972.

§ 5.5. Jurisdiction of district

The jurisdiction of the district to exercise its powers shall extend only over the following;

- (a) All tide, submerged and other lands granted to the district.
- (b) Humboldt Bay as defined in subdivision (f) of Section 3 of this act, including all rivers, sloughs, estuaries and areas tributary to Humboldt Bay, subject to tidal action as of the effective date of this act, provided that only those portions of Gunther, Woodley, and Daby Islands bayward of the mean high tide line shall be under the jurisdiction of the district.

Added Stats 1970 ch 1283.

CHAPTER 2

Formation of the District

Article

1. Initiation of Proceedings. § 5.6
2. Hearing on Formation. § 10
3. Election on Formation: Election of Commissioners. § 12.1

ARTICLE 1

Initiation of Proceedings

Section

- 5.6. District formation proposal
6. Formation proceedings
7. Contents of petition or resolution of intention
8. Qualification of petition signatories
9. Initiation of resolution proceedings

§ 5.6. District formation proposal

A proposal to form the district shall be submitted to the Humboldt County Local Agency Formation Commission pursuant to the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code. The local agency formation commission shall not approve a proposal to form the district unless the boundaries of the proposed district shall encompass the entire incorporated territory of the Cities of Arcata and Eureka.

Added Stats 1970 ch 1283.

§ 6. Formation proceedings

After a proposal to form the district has been approved by the local agency formation commission, proceedings for the formation of the district may be initiated either by a resolution of intention to form the district adopted by the board of supervisors, or by petition. Whenever 50 or more persons residing within the area of the proposed district

desire to form the district, they may sign and present to the board of supervisors, a petition in writing.

Added Stats 1970 ch 1283.

§ 7. Contents of petition or resolution of intention

The petition or resolution of intention shall contain;

(a) A declaration calling for the creation of the Humboldt Bay Harbor, Recreation, and Conservation District.

(b) A declaration setting forth the boundaries of the proposed district.

(c) A declaration setting forth the following purposes to be served within the jurisdiction by creation of the district:

(1) Improvement of navigation and commerce through maintenance and construction of channels, shipways, berths, anchorage places, turning basins, breakwaters, bulkheads, wharves, processing plants, warehouses, roads, spur tracks or beltline railways, and any other work that is deemed necessary that would not otherwise be accomplished by other public or private agencies.

(2) Planning, designation, and protection of wildlife habitats, establishment of open space areas and areas provided for recreational use with open access for the public, protection, conservation, supervision and improvement of the wildlife, fish resources and the ecology of the area, and control and enhancement of the aesthetic appearance of the areas within the jurisdiction of the district.

(3) Regulation of use and control of pollution, dredging, and filling of areas that are subject to district jurisdiction through planning, zoning, and policing, subject to the limitations provided in Section 20 of this act.

Added Stats 1970 ch 1283.

§ 8. Qualification of petition signatories

Each signer of a petition shall be a registered voter and property owner within the district.

Added Stats 1970 ch 1283.

Cross References:

Registration of voters: Elec C §§ 2100 et seq.

§ 9. Initiation of resolution proceedings

To initiate formation proceedings by resolution, the board of supervisors, at a regular meeting, shall adopt a resolution containing the matters required by Section 7. To initiate formation proceedings by petition, the proponents of formation shall submit to the board of supervisors, at a regular meeting, a petition which complies with the provisions of Sections 6, 7 and 8.

Added Stats 1970 ch 1283.

ARTICLE 2

Hearing on Formation

Section

- 10. Date of hearing
- 10.1. Publication of notice of hearing
- 10.2. Examination of formation petition; Prima facie evidence of residency
- 11. Conduct of hearing
- 11.5. Resolution after hearing; Findings
- 12. Findings as conclusive evidence

§ 10. Date of hearing

Upon receipt of a formation petition or passage of a resolution of intention to form the district, the board of supervisors shall fix a date for a hearing on the proposal to form the district. The date shall be not less than 20 nor more than 40 days from receipt of the petition or passage of the resolution.

Added Stats 1970 ch 1283.

§ 10.1. Publication of notice of hearing

Notice of the hearing shall be published pursuant to Section 6066 of the Government Code in a newspaper of general circulation which is circulated within the proposed district.

Added Stats 1970 ch 1283.

Cross References:

Establishing standing as newspaper of general circulation: Gov C §§ 6020 et seq.

Collateral References:

Annotations:

What constitutes newspaper of "general circulation" within meaning of state statutes requiring publication of official notices and the like in such newspaper. 24 ALR4th 822.

§ 10.2. Examination of formation petition; Prima facie evidence of residency

Upon receipt of a formation petition the board of supervisors shall cause its clerk to ascertain whether the petition is signed by the

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requisite number of qualified persons and to report back to the board of supervisors at the formation hearing.

The appearance of a person's name on the last equalized assessment roll of the county for land located within the proposed district shall be prima facie evidence that the person is a property owner within the district. The appearance of a person's name as a registered and uncanceled voter of the county residing within the boundaries of the proposed district shall be prima facie evidence that the person is a resident of the proposed district.

Added Stats 1970 ch 1283.

Cross References:

Residence for voting: Elec C § 349 .

§ 11. Conduct of hearing

At the time and place specified in the notice, the board of supervisors shall consider the petition or resolution and may continue the hearing from time to time, not exceeding a period of 90 days.

At the hearing the board of supervisors shall investigate and determine whether or not the harbor improvement and development work, and the development, protection, and conservation of the natural resources of the Humboldt Bay area, generally described in the petition or in the resolution of intention, is feasible and will result in the improvement and development of harbors and in the development, protection, and conservation of the natural resources of the area.

If it appears, and the board of supervisors finds, that it is necessary in order to make sufficient and adequate investigation upon which to determine such questions to continue the hearing beyond 90 days, the board of supervisors may do so, but the hearing shall be completed within six months from the date of the presentation of the petition or hearing on the resolution of intention.

Added Stats 1970 ch 1283.

§ 11.5. Resolution after hearing; Findings

At any time not later than 30 days after the conclusion of the hearing, the board of supervisors shall adopt a resolution approving or disapproving the formation of the district. A resolution approving the formation of the district shall find at least the following:

- (a) That notice of the hearing by the board of supervisors was duly published pursuant to Section 10.1.
- (b) If proceedings have been initiated by petition, that the petition was signed by the requisite number of qualified signers.
- (c) That a harbor exists within the proposed district.

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(d) That the harbors can be improved and developed as generally described in the petition or in the resolution of intention.

(e) That it is desirable and feasible to undertake the development, protection, and conservation of the natural resources of the area as generally described in the petition or in the resolution of intention.

Added Stats 1970 ch 1283.

§ 12. Findings as conclusive evidence

The findings are conclusive evidence of the existence of every fact so found by the board of supervisors and vest the board of supervisors with authority to proceed pursuant to this act.

Added Stats 1970 ch 1283.

ARTICLE 3

Election on Formation: Election of Commissioners

Section

- 12.1. District formation election
- 12.5. Date and divisions of election
- 13. Governing law for formation election
- 14. Candidates for board of commissioners
- 15. Division representation
- 15.5. Term of office and succession
- 16. Applicable law for general district elections
- 16.1. Decennial redistricting of district divisions
- 16.2. Interim redistricting by board

§ 12.1. District formation election

The board of supervisors, upon making such findings and approving the formation of the district, shall pass a resolution calling an election in the area to be included within the district, for the purpose of submitting to the qualified voters the proposition of the formation of the district and the election of persons to the board of commissioners.

Added Stats 1970 ch 1283.

§ 12.5. Date and divisions of election

The board of supervisors, by resolution, shall fix the date of the election and it shall make an order dividing the area of the proposed district into five divisions, which shall be as equal in population as may be.

Added Stats 1970 ch 1283.

§ 13. Governing law for formation election

Except as otherwise provided in this act, the formation election shall be conducted in accordance with the general election laws of this state so far as applicable. An election called pursuant to the provisions of this act may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

Added Stats 1970 ch 1283.

Editor's Notes—Elections Code §§ 23300 et seq. have been repealed; consolidation of elections is now covered in Elections Code §§ 10400 et seq.

§ 14. Candidates for board of commissioners

A candidate for election to the board of commissioners shall be a resident and qualified elector of the proposed district, and shall qualify for election by securing a nomination paper proposing his candidacy signed by not less than 25 qualified electors of the district who reside within the division within which the candidate resides.

At the first election for commissioners, all candidates shall file their nomination papers with the county clerk of the county, not more than 65 nor less than 50 days before the day of election, and all candidates for commissioners at any subsequent election shall file nomination papers with the board not more than 85 nor less than 60 days before the day of election.

Added Stats 1970 ch 1283.

Cross References:

Residence for voting purposes: Elec C § 349.

§ 15. Division representation

Each member of the board shall be elected by the division which he represents.

Added Stats 1970 ch 1283. Amended Stats 1972 ch 213, effective June 30, 1972.

§ 15.5. Term of office and succession

The members of the board first elected upon the formation of the district shall classify themselves by lot so that two of them shall hold office until the election and qualification of their successors at the first succeeding general district election, and three of them shall hold office until the election and qualification of their successors in the second general district election. The term of office of each member, other than members first elected or members appointed to fill an unexpired term, shall be four years.

Added Stats 1970 ch 1283.

§ 16. Applicable law for general district elections

Except as otherwise provided in this act, the provisions of the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 12 of the Elections Code), shall be applicable to general district elections of elected members of the board.

Added Stats 1970 ch 1283.

Editor's Notes—Elections Code §§ 23500 et seq. have been repealed; the Uniform District Election Law is now found in Elections Code §§ 10500 et seq.

§ 16.1. Decennial redistricting of district divisions

Following each decennial federal census and using the census as a basis, the board shall adjust the boundaries of any or all of the election divisions of the district so that the election divisions shall be as nearly equal in population as may be.

Added Stats 1970 ch 1283.

§ 16.2. Interim redistricting by board

At any time between the decennial adjustments of the election division boundaries, the board may make an interim adjustment of election division boundaries as may be necessary to insure equality in population among the various election divisions.

An interim redistricting shall be made on the basis of the populations or estimated populations contained in the most recent of any of the following: any census of a county, taken as provided in Section 26203 of the Government Code; any census of a city, taken as provided in Chapter 17 (commencing with Section 40200), Part 2, Division 3, of Title 4 of the Government Code; any census or population estimate of a city or a city and county, taken or made as provided in Sections 2107.1 and 2107.2, Streets and Highways Code; population estimates contained in any official document prepared by the State Department of Finance and issued to the public.

Added Stats 1970 ch 1283.

CHAPTER 3

Harbor Commission

Article

1. General Provisions. § 16.5
2. Powers and Duties of the Board and of the District. § 19

ARTICLE 1

General Provisions

Section

- 16.5. Board of commissioners
17. Governing law for board vacancies, oaths, salaries, audits, and meetings
- 17.5. Recall provisions
18. Conveyances to district

§ 16.5. Board of commissioners

The district shall be governed by a board of commissioners composed of five persons elected pursuant to the provisions of Article 3 of Chapter 2 of this act.

Added Stats 1970 ch 1283.

§ 17. Governing law for board vacancies, oaths, salaries, audits, and meetings

The provisions of Section 6054.3 of the Harbors and Navigation Code shall govern the filling of vacancies with respect to elected members of the board. The oath of office, bond, and salaries of members of the board, salaries of subordinate officers or employees, audit of books, statement of finances, and meetings of the board shall be governed by the provisions of Sections 6055, 6056, 6060, 6061, 6062 and 6063 of the Harbors and Navigation Code.

Added Stats 1970 ch 1283.

§ 17.5. Recall provisions

Commissioners shall be subject to recall pursuant to the provisions of Chapter 2 (commencing with Section 27200) of Division 14 of the Elections Code.

Added Stats 1970 ch 1283.

Editor's Notes—Elections Code §§ 27200 et seq. have been repealed; recall of local officers is now governed by Elections Code §§ 11200 et seq.

§ 18. Conveyances to district

Upon the establishment of the district, the Cities of Eureka and Arcata may convey to the district all their right, title and interest in and to such tidelands and submerged lands, together with any improvements of facilities therein or thereon, upon and subject to such terms and conditions as shall be mutually agreed upon by the district and the cities, including reasonable commitments by the district to pay to the cities the cost of maintenance or improvement of such tidelands and submerged lands during such time as the same were subject to construed to impose any obligation upon the district to accept the conveyance of any tidelands or submerged lands from the Cities of Eureka and Arcata. There is hereby granted to the district as of the date of the establishment of the district all the right, title, and interest of the State of California held by virtue of its sovereignty in and to any ungranted tidelands and submerged lands, whether filled or unfilled, situated within Humboldt Bay, as defined in subdivision (f) of Section 3 of this act. The district shall hold such lands in trust for the uses and purposes and subject to the terms and conditions which are set forth in this act.

Added Stats 1970 ch 1283. Amended Stats 1974 ch 1191 § 2.

ARTICLE 2

Powers and Duties of the Board and of the District

Section

- 19. Master plan
- 20. Fiscal year and budget
- 21. Ordinances and resolutions
- 22. Publication of ordinances and effective dates
- 23. District grants, franchises, leases, permits, rights and privileges
- 24. Permitted uses of district territory; Application procedure
- 25. Officers and employees; Treasurer and duties
- 26. Capacity to sue and be sued
- 27. Seal
- 28. Power to acquire and convey territory
- 29. Prohibition of district uses as public nuisance
- 30. Power of eminent domain
- 31. Power to issue bonds and incur indebtedness
- 32. General regulatory powers of district
- 32.5. Establishment of offices in other jurisdictions to provide export trade services; Procedures
- 33. Contracting power
- 34. Power to do necessary and convenient acts
- 35. Wharfage and other use charges
- 36. Contract proceedings; Emergency waiver provisions; Exceptions
- 37. Contracts with United States
- 38. Rules and regulations
- 39. Adoption and enforcement of police and sanitary regulations
- 40. Construction of necessary facilities for commerce, navigation, fisheries, and recreation
- 41. Emergency suspension of rules and regulations
- 42. Offense as misdemeanor
- 43. Application of local police, fire, and sanitary regulations

§ 19. Master plan

The board of commissioners shall draft a master plan for harbor and port improvement and for the use of all of the tidelands and submerged lands which shall be conveyed to the district pursuant to the provisions of this act and other lands or areas subject to its jurisdiction. The board may from time to time modify the master plan by a majority vote of the board.

The provisions in the master plan shall not override or supersede any local existing zoning ordinance which was in effect on November 23, 1970; provided, that if any local zoning ordinance is repealed, or expires, or becomes nonoperative for any reason, thereafter the provisions of the master plan adopted by the board shall control as to all lands and waters under the jurisdiction of the district.

The district shall improve the Humboldt Bay Harbor for navigation and commerce through maintenance and construction of channels, shipways, berths, anchorage places, turning basins, breakwaters, bulkheads, wharves, processing plants, warehouses, roads, spur tracks or beltline railways, and any other work that is deemed necessary that would not otherwise be accomplished by other public or private agencies.

The district shall plan, designate, and protect wildlife habitats, establish open space areas and areas provided for recreational use with open access for the public, protect, conserve, supervise, and improve the wildlife and fish resources of, and control and enhance the aesthetic appearance of, the area.

The district shall regulate the use of Humboldt Bay by control of pollution, dredging, and filling within the area subject to its jurisdiction under Section 5.5.

The district shall work closely with the planning agencies of the adjacent corporate bodies in the exercise of those powers and duties.

Added Stats 1970 ch 1283. Amended Stats 1984 ch 1043 § 2.

§ 20. Fiscal year and budget

The board shall establish a fiscal year for its operations and shall prepare and adopt a budget for each fiscal year.

At the end of each fiscal year or as soon as possible after the end of each fiscal year, the board shall make a complete report of the affairs and financial condition of the district for the preceding fiscal year, which shall show the sources of all receipts and the purposes of all disbursements during the year. The report shall be verified by the chairman of the board and the secretary thereof. The board may, at its discretion, use the statement of finances prepared pursuant to Section 17 to satisfy the requirements of this section.

Added Stats 1970 ch 1283.

§ 21. Ordinances and resolutions

The board may pass all necessary ordinances and resolutions for the regulation of the district.

The enacting clause of all ordinances passed by the board shall be in substantially the following form:

"The Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District do ordain as follows:"

All ordinances and resolutions shall be signed by the chairman of the board and attested by the clerk.

All ordinances and resolutions shall be entered in the minutes. All ordinances passed by the board shall be published, within 15 days from the passage thereof, with the names of the members voting for and against them at least once in some daily newspaper of general circulation printed and published in the district.

Added Stats 1970 ch 1283.

Cross References:

Establishing standing as newspaper of general circulation: Gov C §§ 6020 et seq.

Collateral References:

Annotations:

What constitutes newspaper of "general circulation" within meaning of state statutes requiring publication of official notices and the like in such newspaper. 24 ALR4th 822.

§ 22. Publication of ordinances and effective dates

Ordinances passed by the board shall not go into effect until the expiration of 30 days from their publication except ordinances ordering or otherwise relating to the following which shall take effect upon their publication.

- (a) An election.
- (b) The adoption of the annual budget.
- (c) The bringing or conducting of suits or actions.
- (d) The condemnation of private property for public use.
- (e) The immediate preservation of the public peace, health or safety, which ordinance shall contain a specific statement showing its urgency and be passed by a two-thirds vote of the board.

Added Stats 1970 ch 1283.

§ 23. District grants, franchises, leases, permits, rights and privileges

All grants, franchises, leases, permits, rights or privileges shall be made in accordance with such rules and regulations as the board shall prescribe by resolution. Irrevocable grants of fee title shall be granted or issued.

Added Stats 1970 ch 1283. Amended Stats 1976 ch 1040 § 10.

§ 24. Permitted uses of district territory; Application procedure

- (a) No individual, agency, association or corporation, including the district itself, now subject, or which hereafter may become subject, to the jurisdiction of the district shall be granted any permit, lease,

franchise, right or privilege without the board having first found, after consideration of the impact of the proposed use upon the air, water, land, environment and ecology of the lands under the jurisdiction of the district, that such proposed uses are necessary to promote the safety, health, comfort and convenience of the public, and that they are required by the public convenience and necessity, and that such proposed uses will not have any substantial adverse environmental or ecological effect.

(b) Every applicant shall be required to present satisfactory proof that the proposed use will not have any substantial adverse environmental or ecological effect.

(c) Every successful applicant shall, annually, on or before January 1, furnish a report to the board. Such report shall contain such information as is prescribed by rule, resolution, or ordinance of the board.

(d) The individual, agency, association, or corporation desiring to obtain any permit, lease, franchise, right, or privilege shall file a request with the board in not less than the period of time specified by rule or regulation of the board prior to the date of the required decision by the board. The application shall contain such information as is prescribed by rule, resolution, or ordinance of the board.

(e) Notice of the filing of each application shall be given by the board to the county and municipal planning commissions and to the county and municipal legislative bodies and, in addition, to the Secretary of the Resources Agency, representing the Departments of Conservation, Water Resources, Parks and Recreation, Fish and Game, and Navigation and Ocean Development, to the Department of Public Health, to the State Water Resources Control Board, to the North Coastal Regional Water Quality Control Board, to the State Air Resources Board, to any appropriate county or regional air pollution control district, to the Department of Public Works, and to the State Lands Commission. Such notices shall be given by certified mail not less than 10 days after the filing of the application. Notice shall also be given to the general public by advertisement, not less than once in a newspaper of general circulation in the district. Such publication shall be no later than 10 days after filing of the application.

(f) Those to whom notice has been sent under subdivision (e), and any other party entitled under the board's rules to participate in such proceedings, may, within 30 days after the notice was mailed and published, request the board to hold a hearing on the application. Any such request should include the reasons therefor. If the board, as a result of its preliminary investigation after such request, determines that public hearings should be held, it shall fix a date for such a hearing and shall mail notice of the hearing to each party who is entitled to notice or who has requested a hearing.

(g) The board shall find, as required by subdivision (a), that a proposed

permit, lease, franchise, right or privilege is required by the public convenience and necessity only if it finds that the proposed use is (1) reasonably required to promote area growth and to meet area demands, and does not adversely affect the environment or ecology of the area to any substantial degree, and (2) will not produce an unreasonable burden on the natural resources and aesthetics of the area, on the public health and safety and air and water quality in the vicinity, or on parks, recreational and scenic areas, historic sites and buildings, or archeological sites in the area.

Added Stats 1970 ch 1283.

Cross References:

Publication and official advertising: Gov C §§ 6000 et seq.

Establishing standing as newspaper of general circulation: Gov C §§ 6020 et seq.

Collateral References:

Annotations:

What constitutes newspaper of "general circulation" within meaning of state statutes requiring publication of official notices and the like in such newspaper. 24 ALR4th 822.

Necessity and sufficiency of environmental impact statements under: § 102(2)(C) of National Environmental Policy Act of 1969 (42 USCS § 4332(2)(C)) in cases involving water and waterworks projects. 67 ALR Fed 54.

§ 25. Officers and employees; Treasurer and duties

The board may employ engineers, attorneys and any other officers and employees necessary in the work of the district. The chief executive officer shall appoint a treasurer whose duty it shall be to receive and safely keep all moneys of the district. He shall comply with all provisions of law governing the deposit and securing of public funds. He shall pay out moneys only as authorized by the board and not otherwise; provided, however, that no authorization shall be necessary for the payment of principal and interest on bonds of the district. He shall at regular intervals, at least once each month, submit to the secretary of the district a written report and accounting of all receipts and disbursements and fund balances, a copy of which report he shall file with the board. The treasurer shall execute a bond covering the faithful performance by him of the duties of his office and his duties with respect to all moneys coming into his hands as treasurer in such amount as shall be fixed by resolution of said board. The surety bond herein required shall be executed only by a surety company authorized to do business in the State of California and the premium therefor shall be paid by the district. The bond shall be approved by the board and filed with the secretary of the district. The treasurer before entering upon the duties of his office shall take and file with the secretary of the district the oath of office required by the Constitution of this state.

Added Stats 1970 ch 1283.

Collateral References:

Cal Jur 3d Public Officers §§ 12 et seq.

§ 26. Capacity to sue and be sued

The district and the board may sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction.

The district may also bring an action to determine the validity of any of its bonds, warrants, contracts, obligations or evidences of indebtedness pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

Added Stats 1970 ch 1283.

§ 27. Seal

The board may adopt a seal for the district and alter it at pleasure.

Added Stats 1970 ch 1283.

§ 28. Power to acquire and convey territory

The district may take by grant, purchase, gift, devise, lease or otherwise acquire, hold and enjoy and lease and dispose of real and personal property of every kind, within the district, necessary to the full or convenient exercise of its powers.

Added Stats 1970 ch 1283.

§ 29. Prohibition of district uses as public nuisance

Any proposed use by the district of any particular land within its jurisdiction which would constitute a public nuisance may be prohibited by ordinance adopted by the city or by the county within which such land is located.

Added Stats 1970 ch 1283.

Collateral References:**Annotations:**

Punitive damages in actions based on nuisance. 31 ALR3d 1346.

§ 30. Power of eminent domain

The district may exercise the power of eminent domain for any of the following purposes;

(a) To acquire, enhance, or improve lands within its jurisdiction as set forth in Section 5.5.

(b) To acquire lands immediately contiguous to lands subject to its jurisdiction as set forth in Section 5.5 as of November 23, 1970.

(c) To acquire rights-of-way to lands within such jurisdiction.

(d) To acquire any property necessary or convenient for the purposes specified in this act.

Added Stats 1970 ch 1283. Amended Stats 1972 ch 213, effective June 30, 1972; Stats 1975 ch 587.

Collateral References:

Cal Jur 3d (Rev) Eminent Domain §§ 1 et seq.

Annotations:

Eminent domain: validity of appropriation of property for anticipated future use. 80 ALR3d 1085.

§ 31. Power to issue bonds and incur indebtedness

The district may issue bonds, borrow money and incur indebtedness as authorized by law or in this act provided. The district may also refund any indebtedness as provided in this act or in any other applicable law, and may also refund any indebtedness by the issuance of the same type of obligations as those refunded and following the same procedure as at that time may be applicable to the issuance of such obligations, and may retire any indebtedness or lien that may exist against the district or its property.

Added Stats 1970 ch 1283.

Collateral References:

Cal Jur 3d Public Securities and Obligations §§ 3 et seq.

§ 32. General regulatory powers of district

The board may regulate and control the anchoring, mooring, towing, docking movement and pilotage of all vessels.

The district may perform the functions of warehousemen, stevedores, lighterers, reconditioners, shippers and reshippers of properties of all kinds.

The board may manage the business of the district and promote the maritime and commercial interests by proper advertisement of its advantages and by the solicitation of business within or without the district, within other states or in foreign countries, through such employees or agencies as are expedient.

Within the boundaries of the district, the district may acquire, purchase, take over, construct, maintain, operate, develop and regulate bunkering facilities, belt or other railroads, floating plants, lighterage, towage facilities, and any and all other facilities, aids, equipment or property necessary for or incident to the development and operation of a harbor or for the accommodation and promotion of commerce, navigation or fisheries in the district.

Added Stats 1970 ch 1283.

§ 32.5. Establishment of offices in other jurisdictions to provide export trade services; Procedures

(a) The board may establish offices in other states or in foreign countries for the purpose of providing export trade services. The board may also create an export trading company, with offices where it deems appropriate, to promote the maritime and commercial interests of the district.

(b) Notwithstanding any other provision of this act, no moneys in the Humboldt Bay Harbor, Recreation and Conservation District Revenue Fund shall be used to establish, operate, or fund any out-of-state or foreign office or any export trading company, including transportation or warehousing services. However, any tolls, charges, compensation, or fees levied by the district for services provided by an out-of-state or foreign office or by an export trading company, other than for transportation or warehousing services on tide and submerged lands granted to the district, may be used for purposes of those offices or an export trading company.

(c) The district shall submit to the State Controller, at the end of each fiscal year or as soon thereafter as possible, detailed statements of all revenues and expenditures attributable to the operation of each out-of-state or foreign office and each export trading company, if any, for that fiscal year. The statements shall include, but not be limited to, a balance sheet, an income statement, and a statement of sources and applications of funds.

(d) As used in this section, "export trading company" means a person, partnership, association, or similar organization, whether operated for profit or as a nonprofit organization, which does business under the laws of the United States or the State of California and which is organized and operated principally for the purpose of facilitating export trade services, including, but not limited to, consulting, international market research, advertising, marketing, assistance to obtain insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication, and processing of foreign orders to and for exporters and foreign purchasers, warehousing, and facilitating foreign exchange and financing. An export trading company established under this section shall not itself make loans or otherwise provide credit, become an insurance carrier, or take title to goods.

Added Stats 1984 ch 1043 § 3.

§ 33. Contracting power

As to any service which the district is authorized to perform pursuant to the provisions of this act, the district may contract for the performance of such service by the city or by the county.

Added Stats 1970 ch 1283.

§ 34. Power to do necessary and convenient acts

The board may do all other acts necessary and convenient for the exercise of its powers.

Added Stats 1970 ch 1283.

§ 35. Wharfage and other use charges

The board shall by ordinance fix the rate of wharfage charges and other charges which are appropriate for the use of any of the facilities owned and constructed or services furnished or provided by the district.

Added Stats 1970 ch 1283.

Collateral References:

Annotations:

Power of municipality to charge nonresidents higher fees than residents for use of municipal facilities. 57 ALR3d 998.

§ 36. Contract procedures; Emergency waiver provisions; Exceptions

The district may itself, without letting contracts therefor, do work and make improvements. The work shall be done under the direction of its officers or employees in accordance with the following paragraph;

In the construction or reconstruction of public buildings, streets, utilities and other public works, and in furnishing supplies, materials, equipment or contractual services for the same, when the expenditure therefor shall exceed the sum of five thousand dollars (\$5,000), the same shall be done by written contract, except as otherwise provided in this act, and the board, on the recommendation of the chief executive officer, shall let the same to the lowest responsible and reliable bidder, not less than 10 days after advertising for one day in the official newspaper of the district for sealed proposals for the work contemplated. All maintenance or repair projects where the cost of materials and labor exceeds three thousand five hundred dollars (\$3,500) shall be let to the lowest responsible and reliable bidder. If the cost of the public contract work exceeds the sum of three thousand five hundred dollars (\$3,500), but is not in excess of five thousand dollars (\$5,000), the board may let the contract without advertising for bids, but not until the chief executive officer shall have secured competitive prices from contractors interested, which shall be taken under consideration by the board before the contract is let. The board may, however, upon the recommendation of the chief executive officer and by a vote of a majority of its members, order the performance of any such construction and reconstruction or repair work by appropriate district forces when the estimates submitted as part of the chief executive officer's recommendation indicate that the work can be done by the district forces more economically than if let by contract.

In case of a great public calamity, such as extraordinary fire, flood, storm, epidemic or other disaster the board may, by resolution passed by a vote of a majority of its members, determine and declare that the public interest or necessity demands the immediate expenditure of district money to safeguard life, health or property, and thereupon they may proceed, without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of any sum required in such emergency, on hand in the district fund and available for such purpose. All contracts before execution shall be approved as to form and legality by the attorney for the district.

Contracts for consulting services shall be let only after submission of proposals and evaluation of the expertise, experience, and proposed price of the vendor. Contracts for consulting services not limited to a specific project shall not exceed one year in length.

The provisions of this section do not apply to any contract for architectural, engineering, legal, or auditing services.

Added Stats 1970 ch 1283. Amended Stats 1977 ch 1227.

§ 37. Contracts with United States

The board may, without advertising for bids, negotiate with the government of the United States for the purpose of assisting the board in the performance of any of the work authorized by this act, and the board may contribute to the United States all or any portion of the estimated cost of any work authorized by this act which is to be done by or under contract with the United States.

Added Stats 1970 ch 1283.

Collateral References:

Annotations:

Authority of Secretary of Army to deny dredging and filling permit for ecological reasons under § 10 of Rivers and Harbors Act of 1899 (33 ESCS § 403). 25 ALR Fed 706.

§ 38. Rules and regulations

The board may;

(a) Make and enforce all necessary rules and regulations governing the use and control of all navigable waters and all tidelands and submerged lands, filled or unfilled, and other lands within the jurisdiction limits of the district.

(b) Regulate and control the anchoring, mooring, and docking of all vessels.

(c) Establish and maintain a system of harbor police and may establish harbor fire protection within the jurisdictional limits of the district for the enforcement of the ordinances, rules and regulations of the district, and employ the necessary officers, who shall as to such matters have all

the power of peace officers and firemen within the district; or in the alternative, the district may contract with the governmental entities whose territorial limits are adjacent to or contiguous to those of the district to provide such services.

Added Stats 1970 ch 1283.

§ 39. Adoption and enforcement of police and sanitary regulations

The board shall make and enforce such local police and sanitary regulations relative to the construction, maintenance, operation and use of all public services and public utilities in the district, operated in connection with or for the promotion or accommodation of commerce, navigation, fisheries, and recreation therein as are now vested in the district.

Added Stats 1970 ch 1283.

§ 40. Construction of necessary facilities for commerce, navigation, fisheries, and recreation

The board may acquire, construct, erect, maintain or operate within the district, all improvements, utilities, appliances or facilities which are necessary or convenient for the promotion and accommodation of commerce, navigation, fisheries, and recreation, or their use in connection therewith upon the lands and waters under the control and management of the board, and it may acquire, maintain and operate facilities of all kinds within the district.

Added Stats 1970 ch 1283.

§ 41. Emergency suspension of rules and regulations

In case of emergency the board may suspend, modify or amend any rule or regulation of the board, or it may place in effect any emergency rule or regulations, for periods not exceeding 30 days, and every such ordinance shall so provide.

Added Stats 1970 ch 1283.

§ 42. Offense as misdemeanor

Any person who violates the provisions of any ordinance, or any local police or sanitary regulation, of the board shall be guilty of a misdemeanor.

Added Stats 1970 ch 1283.

Cross References:

"Misdemeanor": Pen C §§ 17, 19, 19.2.

§ 43. Application of local police, fire, and sanitary regulations

In the absence of the adoption of any police, fire and sanitary regulations by the district, the police, fire and sanitary regulations of the county or any city whose boundaries are adjacent to or contiguous to the territorial limits of the district shall be applicable.

Added Stats 1970 ch 1283.

CHAPTER 4

Finances

Article

1. Budget. § 44
2. Temporary Borrowing. § 59
3. General Obligation Bonds. § 60
4. Revenue Bonds. § 64
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ARTICLE I

Budget

Section

44. Budget
45. Notice of adoption of preliminary budget; Inspection; Final budget
46. Hearing on budget
47. Report of final budget to board of supervisors
48. Taxes required to fund budget; Collection
49. Transfers to Capital Outlay funds
50. Procedures for disbursement of fund monies
51. Reimbursement to governments of fund monies
52. Humboldt Bay Harbor, Recreation and Conservation District Revenue Fund; Deposits and appropriations
53. Uses of fund monies; Operation and maintenance of facilities
54. Advertising uses of fund monies
55. Acquisition and improvement uses of fund monies
56. Payment of principal or interest of district bonds from fund
- 56.5. Regulation of pilotage and towing
57. Use of fund monies to pay principal and interest of local bonds for district improvements
58. Transfer of appropriations to other budget items

§ 44. Budget

On or before the 15th day of June of each year, the district board shall estimate and determine the amount of money required by the district and shall adopt a preliminary budget which shall be divided into the following main classes;

- (a) Ordinary annual expenses.
- (b) Capital outlay and Capital Outlay Fund.
- (c) Prior indebtedness.

Added Stats 1970 ch 1283.

§ 45. Notice of adoption of preliminary budget; Inspection; Final budget

On or before the 15th day of June of each year, the board shall publish a notice pursuant to Section 6061 of the Government Code in the district stating:

- (a) That the preliminary budget has been adopted and is available at a time and at a place within the district specified in the notice for inspection by interested taxpayers.
- (b) That on a specified date not less than one month after the publication of the notice and at a specified time and place, the district board will meet for the purposes of fixing the final budget, and that any taxpayer may appear and be heard regarding the increase, decrease or omission of any item in the budget, or for the inclusion of additional items.

Added Stats 1970 ch 1283.

§ 46. Hearing on budget

At the time and place designated in the published notice for the meeting, any taxpayer may appear and be heard regarding the increase, decrease or omission of any item in the budget or for the inclusion of additional items. The hearing on the budget may be continued from time to time.

Added Stats 1970 ch 1283.

§ 47. Report of final budget to board of supervisors

The district board shall report the final budget to the board of supervisors after the budget hearing but not later than the first day of August each year after making any changes in the preliminary budget it deems advisable during or after the hearing, including deductions, increases or additions.

Added Stats 1970 ch 1283.

§ 48. Taxes required to fund budget; Collection

The board of supervisors shall at the time of levying the county taxes levy the taxes required by other sections of this act and also a tax upon all the taxable property within the district sufficient to meet the amounts set forth in the final budget submitted by the district board.

The money when collected by the tax collector of the county shall be paid to the treasurer of the district. The tax shall not, however, exceed a rate of ten cents (\$0.10) on each one hundred dollars (\$100) of assessed valuation, exclusive of taxes levied or required to be levied under Sections 61, 62, and 63 of this act, unless approved by a majority of the electors of the district.

Added Stats 1970 ch 1283.

§ 49. Transfers to Capital Outlay Fund

At any time the board may transfer to the Capital Outlay Fund any unencumbered surplus funds raised from sources other than from taxation, for any purpose whatsoever, remaining on hand at the end of any fiscal year or years.

Added Stats 1970 ch 1283.

§ 50. Procedures for disbursement of fund monies

The Capital Outlay Fund shall remain inviolate for the making of any capital outlays and the money shall not be disbursed from the fund except for such a purpose unless the district board submits a proposition to the electors of the district to obtain their consent to use the money in the fund for some other specific purpose. The proposition may be submitted at any election. A majority vote of all the voters voting at the election is necessary to authorize the expenditure of the money for such other purpose.

Added Stats 1970 ch 1283.

§ 51. Reimbursement to governments for water or navigation improvements

The district may contribute money to the federal or the state government or to the county in which it is located or to any city within the district, for the purpose of defraying the whole or a portion of the cost and expenses of work and improvement to be performed, either within or without the territorial limits of the district, by the federal, state, county or city government, in improving rivers, streams, or in doing other work, when such work will improve navigation, commerce, or renewable natural resources, in or to the navigable waters in the district.

Added Stats 1970 ch 1283.

§ 52. Humboldt Bay Harbor, Recreation and Conservation District Revenue Fund; Deposits and appropriations

All money received or collected from or arising out of the use or operation of any harbor or port improvement, work, appliance, facility or

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utility, or vessel, owned, controlled or operated by the district; all tolls, charges and rentals collected by the board, and all compensations or fees required to be paid for franchises or licenses, or otherwise by law or ordinance or order, to the district for the operation of any public service utility upon lands or waters under the control and management of the board, shall be deposited in the treasury of the district to the credit of a fund to be known as the Humboldt Bay Harbor, Recreation and Conservation District Revenue Fund. The money in or belonging to the fund shall not be appropriated or used for any purpose except those enumerated in this act and such enumeration shall not be deemed to create any priority of one use of purpose over another.

Added Stats 1970 ch 1283.

§ 53. Uses of fund monies; Operation and maintenance of facilities

The fund may be used for the necessary expenses of conducting the district, including the operation and maintenance of all harbor or port improvements, works, utilities, appliances, facilities and vessels owned, controlled or operated by the district for the promotion and accommodation of commerce, navigation, fisheries, and recreation, or used in connection therewith, and for the purposes set forth in any grants in trust.

Added Stats 1970 ch 1283.

§ 54. Advertising uses of fund monies

The money in the fund may also be used for advertising the commercial and other advantages and facilities of any harbor in the district, and for encouraging and promoting commerce, navigation and transportation in and through such harbor.

Added Stats 1970 ch 1283.

§ 55. Acquisition and improvement uses of fund monies

The money in the fund may also be used for the acquisition, construction, completion and maintenance of harbor and port improvements, works, utilities, appliances, facilities, and vessels, for the promotion and accommodation of commerce, navigation and fisheries, and recreation, or uses in connection therewith; and for extraordinary improvements and betterments to lands and property under the control, supervision and management of the district, including the purchase or condemnation of necessary lands and other property and property rights.

Added Stats 1970 ch 1283.

§ 56. Payment of principal or interest of district bonds from fund

The money in the fund may also be used for the payment of th

principal, or interest, or both, of district bonds authorized, issued and sold pursuant to this act and for the establishment and maintenance of bond service funds, sinking funds, reserve funds or other funds or accounts established to secure the payment of principal of, interest on, or redemption of or for the security of such bonds.

Added Stats 1970 ch 1283.

Collateral References:

Cal Jur 3d Public Securities and Obligations § 55.

§ 56.5. Regulation of pilotage and towing

The board shall regulate and control the pilotage and towing of all vessels.

Added Stats 1970 ch 1448 § 3.

Former Sections:

Former § 56.6 was added Stats 1970 ch 1283 and repealed Stats 1970 ch 1448 § 2.

§ 57. Use of fund monies to pay principal and interest of local bonds for district improvements

The money in the fund may also be used for the payment of the principal or interest, or both, of the bonds of the county or any city in the district, for harbor improvements, authorized or outstanding prior to the establishment of the district, or thereafter issued and sold by such county or city for harbor improvements pursuant to this act.

Added Stats 1970 ch 1283.

§ 58. Transfer of appropriations to other budget items

The chief executive officer may make application in writing to the board for a transfer of amounts from one appropriated item to another in the budget allowance. On the approval of the board by a majority vote, the auditor shall make such transfer; but a transfer shall not be made except as herein provided. Any transfer of bond or note proceeds or of bond or note service, reserve or sinking funds shall be made only as provided in the proceedings authorizing the issuance of such bonds.

Added Stats 1970 ch 1283.

ARTICLE 2

Temporary Borrowing

§ 59. Temporary borrowing

Notwithstanding any other provision of this act, the board may borrow money by issuance of negotiable promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of two hundred thousand dollars (\$200,000), for the purposes of the acquisition, construction, completion or repair of any or all improvements, works, property or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district.

Notwithstanding any other provision of this act, the board may borrow money, until June 30, 1975, by the issuance of negotiable promissory notes, to provide working capital for the necessary expenses of conducting the district, provided that at the time of issuance of any such notes the aggregate amount of said notes outstanding and issued for such purpose shall not exceed one-fourth of the annual budget for such expenses for the fiscal year (or portion thereof in the case of 1970-1971) in which such borrowing occurs.

Notwithstanding any other provision of this act, the board may borrow money, until June 30, 1975, by the issuance of negotiable promissory notes to provide any or all sums required to be paid pursuant to the provisions of Section 64 of this act.

Negotiable promissory notes issued pursuant to this section shall mature in not exceeding five years from their respective dates and shall bear interest at a rate or rates not exceeding 7 percent per annum payable annually or semiannually.

No conditional sales contract shall be for a term in excess of five years from the date of execution thereof.

The negotiable promissory notes and the conditional sales contracts shall contain such terms and provisions as the board shall specify in the ordinance providing for the issuance thereof. The negotiable promissory notes shall be signed in the same manner as general obligation bonds of the district and the conditional sales contracts shall be signed in the same manner as other contracts of the district.

As a condition precedent to the issuance of any negotiable promissory notes for the purposes of the acquisition, construction, completion or repair of any or all improvements, works, property or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district or the execution of any conditional sales contract for such purposes, as provided in this section, in excess of twenty-five thousand dollars (\$25,000), the board shall first unanimously approve by resolution and have on file a report approved by the chief executive officer on the engineering and economic feasibility relating to the project contemplated for the expenditure of said borrowed money or conditional sales contract. Said feasibility report shall be prepared and signed by an engineer or engineers licensed and registered under the laws of the State of California.

Taxes for the payment of all negotiable promissory notes or conditional sales contracts issued under this section shall be levied, collected, paid to the district and used in the same manner as is hereinafter provided for general obligation bonds of the district.

Added Stats 1970 ch 1283.

ARTICLE 3

General Obligation Bonds

Section

- 60. General obligation bonds
- 61. Tax levies to pay bond principal and interest
- 62. Certification to board of supervisors of annual amount of bond principal and interest
- 63. Procedure for tax levy
- 63.5. Financing waterway projects

§ 60. General obligation bonds

Whenever the board deems it necessary for the district to incur a general obligation bonded indebtedness for the acquisition, construction, completion or repair of any or all improvements, works, property or facilities, authorized by this act or necessary or convenient for the carrying out of the powers of the district, it shall, by ordinance, adopted by a majority of all members of the board, so declare and call an election to be held in said district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of general obligation bonds of said district. Said ordinance shall state;

- (a) The purpose for which the proposed debt is to be incurred, which may include expenses of all proceedings for the authorization, issuance and sale of the bonds.
- (b) The estimated cost of accomplishing said purpose.
- (c) The amount of the principal of the indebtedness.
- (d) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years from the date thereof or the date of each series thereof.
- (e) The maximum rate of interest to be paid, which shall not exceed 7 percent per annum.
- (f) The proposition to be submitted to the voters.
- (g) The date of the election.
- (h) The manner of holding the election and the procedure for voting for or against the measure.

Notice of the holding of such election shall be given by publishing, pursuant to Section 6066 of the Government Code, the ordinance calling the election in at least one newspaper published in such district. No other notice of such election need be given. Except as otherwise provided in the ordinance, the election shall be conducted as other district elections.

If any proposition is defeated by the electors, the board shall not call another election on a substantially similar proposition to be held within six months after the prior election. If a petition requesting submission of such a proposition, signed by 15 percent of the district electors, as shown by the votes cast for all candidates for Governor at the last election, is filed with the board, it may call an election before the expiration of six months.

If a majority of the electors voting on the proposition vote for it, then the board may, by resolution, at such time or times as it deems proper, issue bonds of the district for the whole or any part of the amount of the indebtedness so authorized and may from time to time, in such resolution or resolutions, provide for the issuance of such amounts as the necessity thereof may appear, until the full amount of such bonds authorized shall have been issued. Said full amount of bonds may be divided into two or more series and different dates and different dates of payment fixed for the bonds of each series. A bond need not mature on an anniversary of its date. The maximum term the bonds of any series shall run before maturity shall not exceed 40 years from the date of each series respectively. In such resolution or resolutions the board shall prescribe the form of the bonds and the form of any coupons to be attached thereto, the registration, conversion and exchange privileges, if any, pertaining thereto, and fix the time when the whole or any part of the principal shall become due and payable.

The bonds shall bear interest at a rate or rates not exceeding 7 percent per annum, payable semiannually, except that the first interest payable on the bonds or any series thereof may be for any period not exceeding one year as determined by the board. In the resolution or resolutions providing for the issuance of such bonds the board may also provide for call and redemption of such bonds prior to maturity at such times and prices and upon such other terms as it may specify, provided that no bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon. The denomination or denominations of the bonds shall be stated in the resolution providing for their issuance, but shall not be less than one thousand dollars (\$1,000). The principal of and interest on such bonds shall be payable in lawful money of the United States at the office of the treasurer of the district or at such other place or places as may be designated, or at either place or places at the option of the holders of the bonds. The bonds shall be dated, numbered consecutively and shall be signed by the chairman and treasurer, countersigned by

the clerk and the official seal of the district attached. The interest coupons of such bonds shall be signed by the treasurer. All such signatures, countersignatures and seal may be printed, lithographed or mechanically reproduced, except that one of such signatures or countersignatures on the bonds shall be manually affixed. If any officer whose signature or countersignature appears on bonds or coupons ceases to be such officer before the delivery of the bonds, his signature is as effective as if he had remained in office.

The bonds may be sold as the board determines by resolution but for not less than par. Before selling the bonds, or any part thereof, the board shall give notice inviting sealed bids in such manner as it may prescribe. If satisfactory bids are received the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received or if 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.

Delivery of any bonds may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

All accrued interest received on the sale of bonds shall be placed in the fund to be used for the payment of principal of and interest on the bonds and the remainder of the proceeds of the bonds shall be placed in the treasury to the credit of the proper improvement fund and applied exclusively to the purpose for which the debt was incurred; provided, however, that when said purpose has been accomplished any moneys remaining in such improvement fund (a) shall be transferred to the fund to be used for the payment of principal of and interest on the bonds, or (b) shall be placed in a fund to be used for the purchase of outstanding bonds of the district.

After the expiration of three years after a general obligation bond election the board may determine, by ordinance adopted by a majority of all the members of the board, that any or all of the bonds authorized at said election remaining unsold shall not be issued or sold. When the ordinance takes effect, the authorization to issue said bonds shall become void.

Whenever the board deems that the expenditure of money for the purpose for which the bonds were authorized by the voters is impractical or unwise, it may, by ordinance adopted by the majority of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of such bonds for some other purpose. The procedure, so far as applicable, shall be the same as when a bond proposition is originally submitted.

The board may provide for the issuance, sale or exchange of refunding

bonds to redeem or retire any bonds issued by the district upon the terms, at the times and in the manner which it determines. Refunding bonds may be issued in a principal amount sufficient to pay all or any part of the principal of such outstanding bonds, the interest thereon and the premiums, if any, due upon call and redemption thereof prior to maturity and all expenses of such refunding. The provisions for this section for authorization, issuance and sale of bonds shall apply to the authorization, issuance and sale of such refunding bonds; except that when refunding bonds are to be exchanged for outstanding bonds the method of exchange shall be as determined by the board.

Added Stats 1970 ch 1283.

Collateral References:

Cal Jur 3d Public Securities and Obligations §§ 22 et seq., 38 et seq., 47 et seq., 54 et seq., 62 et seq.

§ 61. Tax levies to pay bond principal and interest

All bonds issued pursuant to Section 60 of this act are general obligations of the district and at the time of making the general tax levy after the incurring of any such bonded indebtedness, and annually thereafter until the bonds are paid or until there is a sum in the treasury of the district set apart for that purpose sufficient to meet all payments of principal and interest on the bonds as they become due, the board must cause a tax to be levied and collected annually, as hereinafter provided in Sections 62 and 63 of this act, sufficient to pay the interest on the bonds and such part of the principal as will become due before the proceeds of a tax levied at the next general tax levy will be available.

Added Stats 1970 ch 1283.

§ 62. Certification to board of supervisors of annual amount of bond principal and interest

The board shall, at least 30 days before the board of supervisors is required by law to fix the general tax levy, certify to the board of supervisors in writing the minimum amount of money required to be raised by taxation during the fiscal year for the payment of the principal and interest. If any of the moneys required to be raised by such annual tax levy are actually on hand and have been set aside in said fund for said purpose from some such other source, the tax levy hereinbefore required for such year may be reduced by such amount.

Added Stats 1970 ch 1283.

§ 63. Procedure for tax levy

The taxes required to be levied by Sections 61 and 62 of this act shall be levied upon all property within the district taxable for county purposes and shall be in addition to any and all other taxes levied by

the board of supervisors and it shall be the duty of the officer, officers or body having authority to levy taxes within the county to levy the taxes so required. It shall be the duty of all county or other officers charged with the duty of collecting taxes to collect such taxes in the time, form and manner as county taxes are collected and when collected to pay the same to the district. All such taxes shall be of the same force and effect as taxes levied for county purposes and their collection may be enforced by the same means as provided for the collection of county taxes. Such taxes shall be used only for the payment of the bonds and interest thereon.

Added Stats 1970 ch 1283.

§ 63.5. Financing waterway projects

(a) The district may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapters of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the districts may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2

of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, provided that the advances be repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for disposal of dredged material.

(e) For purposes of this section, functions designated by Article 3 (commencing with Section 51320) of chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

ARTICLE 4

Revenue Bonds

§ 64. Revenue bonds

Whenever the board deems it necessary for the district to incur a revenue bonded indebtedness for the acquisition, construction, completion or repair of any or all improvements, works, property or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district, the board shall issue such revenue bonds in accordance with the provisions of the Revenue Bond Law of 1941, as the same now exists or may hereafter be amended; provided, however, that:

- (a) As an alternative to the election required by the Revenue Bond Law of 1941, the board may provide by ordinance, which shall be subject to referendum, that the bonds shall be issued without an election. Any referendum petition on such an ordinance shall be filed within the requisite time and shall be signed by voters of the district equal in number of at least 5 percent of the entire vote cast within the district for all candidates for Governor at the last gubernatorial election.
- (b) The aggregate amount of revenue bonds outstanding at any one time which have not been authorized or approved at an election shall not exceed two million dollars (\$2,000,000).
- (c) Any provisions of the Revenue Bond Law of 1941 which are inconsistent with the provisions of this act shall not be applicable.

Added Stats 1970 ch 1283.

Cross References:

Revenue Bond Law of 1941: Gov C §§ 54300 et seq.

ARTICLE 5

General

Section

- 65. Bonds as legal investments
- 66. Enforcement of debt instruments against district
- 67. Assumption of city indebtedness incurred for improvement of tidelands and submerged lands
- 68. Investment of funds
- 69. Execution of instruments of indebtedness

§ 65. Bonds as legal investments

Bonds issued by the district pursuant to this act are legal investments for all trust funds, and for the funds of all insurers, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts or municipalities in this state, such money or funds may be invested in bonds of the district organized pursuant to this act.

Added Stats 1970 ch 1283.

Cross References:

Investment of public funds: Const Art XVI § 17.

§ 66. Enforcement of debt instruments against district

Notwithstanding any other provisions of this act or any other law, the provisions of all ordinances, resolutions and other proceedings in the issuance by the district of any general obligation bonds, general obligation bonds with a pledge of revenues, revenue bonds, negotiable promissory notes, or any and all evidences of indebtedness or liability and the provisions thereof and the provisions of this act shall be enforceable against the district, any or all of its successors or assigns, by mandamus or any other appropriate suit, action or proceeding in law or in equity in any court of competent jurisdiction. Nothing contained in this act or in any other law shall be held to relieve the district or the territory included within it from any bonded or other debt or liability contracted by the district. Upon dissolution of the district or upon withdrawal of

territory therefrom, the property formerly included within the district or withdrawn therefrom shall continue to be liable for the payment of all bonded and other indebtedness or liabilities outstanding at the time of such dissolution or withdrawal the same as if the district had not been so dissolved or the territory withdrawn therefrom, and it shall be the duty of the successors or assigns to provide for the payment of such bonded and other indebtedness and liabilities. Except as may be otherwise provided in the proceedings for the authorization, issuance and sale of any revenue bonds or general obligation bonds secured by a pledge of revenues, revenues of any kind or nature derived from any revenue-producing improvements, works, facilities or property owned, operated or controlled by the district shall be pledged, charged, assigned and have a lien thereon for the payment of such bonds as long as the same are outstanding, regardless of any change in ownership, operation or control of such revenue-producing improvements, works, facilities or property and it shall, in such later event or events, be the duty of the successors or assigns to continue to maintain and operate such revenue-producing improvements, works, facilities or property as long as such bonds are outstanding.

Added Stats 1970 ch 1283.

Cross References:

Capacity to be sued: H & N C Appx II § 26.

§ 67. Assumption of city indebtedness incurred for improvement of tidelands and submerged lands

The district in consideration for the conveyance of tidelands and submerged lands by the Cities of Eureka and Arcata, such conveyance having been accepted by the district in accordance with the provisions of Section 18 of this act, shall take over and assume any indebtedness incurred by the cities for the development, improvement, or maintenance of such tidelands and submerged lands, or for the construction of improvements or facilities therein or thereon.

Added Stats 1970 ch 1283.

Cross References:

Administration and control of tidelands or submerged land: Pub Res C §§ 6301 et seq.

§ 68. Investment of funds

The board may, by resolution, order that any of the moneys in the funds under its control which are not necessary for current operating expenses be invested in any obligations, bonds or securities in which a general law city could invest such funds; provided, however, that (1) any such investment shall be made in such a manner that the moneys in such funds will be available at the times and in the amounts necessary to accomplish the purpose for which said funds were established,

and (2) no such investment shall be made in contravention of any provision or covenant in any proceedings for the authorization and issuance of bonds, notes, contracts or other evidences of indebtedness.

Added Stats 1970 ch 1283.

§ 69. Execution of instruments of indebtedness

Bonds, notes and other evidences of indebtedness issued or incurred by the district shall be signed as provided in the section of this act applicable thereto or as provided in any other law applicable thereto; provided, however, that if the particular section or law does not prescribe the method of such execution, the method provided for general obligation bonds of the district shall apply so far as applicable. All other contracts of the district shall be executed in such manner as the board may fix by resolution.

Added Stats 1970 ch 1283.

Collateral References:

Cal Jur 3d Public Securities and Obligations § 32.

CHAPTER 5

Officers and Employees

Section

- 70. Transfer of county and city employees to district; Retirement and disability system continuation provisions
- 71. Provisions governing transferred employees
- 72. Officers
- 73. Unclassified and classified employees
- 74. Adoption of civil service rules and regulations
- 75. Contract for use of county civil service department

§ 70. Transfer of county and city employees to district; Retirement and disability system continuation provisions

Notwithstanding the provisions of Section 68 of this act, all employees of the county and any city performing duties in connection with Humboldt Bay Harbor or the respective harbor departments, shall be blanketed in as employees of the district; and the district is empowered to; (a) contract with the Public Employees' Retirement System and may provide retirement and disability benefits for employees under the Public Employees' Retirement System pursuant to its rules and regulations, or (b) contract with any city included within the district which has a retirement system for retirement and disability benefits for district employees. The district may, by contract, continue such employees of the district so blanketed in as members of the retirement system of which they were members while they were employees of the respective cities.

Added Stats 1970 ch 1283.

§ 71. Provisions governing transferred employees

No employee of the district who was previously employed by another governmental agency and was transferred to the district when it was formed and took over functions previously performed by such other agency shall be discharged, except for cause, or transferred to any position of a lesser class.

Nothing in this section shall prevent the district from employing an independent contractor to provide services of a professional, scientific or

technical nature where the district has determined that it is impractical to have such service furnished by a person employed or to be employed in the classified service and the employment of such independent contractor will not require the removal, suspension, layoff or transfer of any employee in the classified service or the elimination of any classification thereof.

This section shall not apply to any employee of the district who is or has been employed by another governmental agency in substantially the same class of position and rate of pay as the position held, and pay received, while employed by the district.

Added Stats 1970 ch 1283.

Cross References:

Transfer of public functions: Gov C §§ 53290 et seq.

§ 72. Officers

The officers of the district shall be:

- (a) Chief executive officer.
- (b) An auditor.
- (c) An attorney.
- (d) A clerk.
- (e) A treasurer.
- (f) A chief engineer.
- (g) A planner.

The auditor, chief executive officer, and attorney shall be appointed by the board when such positions are required to be filled. The auditor and attorney shall appoint such deputies or assistants as may be authorized by the board. All other officers and employees shall be appointed by the chief executive officer. All officers appointed by the chief executive officer must be confirmed by the board.

Added Stats 1970 ch 1283.

Collateral References:

Cal Jur 3d Public Officers and Employees §§ 19 et seq.

§ 73. Unclassified and classified employees

- (a) Employment in the district shall be divided into the unclassified and classified service.
- (b) The unclassified service shall include:
 - (1) All officers of the district.
 - (2) All department and division heads.
 - (3) The principal assistant or deputy of all officers and department and division heads.
 - (4) All assistant and deputy attorneys.

(c) The board shall establish a classified civil service which shall include all positions not specifically included in the unclassified service; provided, however, any incumbents in the positions included in the unclassified service presently in the classified service shall remain in the classified service until the respective positions are vacated by the incumbents.

(d) Officers and employees appointed by the board may be removed from office by a majority vote of the board.

(e) All persons in the classified service shall be appointed by and may be removed by the chief executive officer subject to the civil service rules and regulations of the district.

Added Stats 1970 ch 1283.

Collateral References:

Cal Jur 3d Public Officers and Employees §§ 24 et seq.

§ 74. Adoption of civil service rules and regulations

The board may adopt civil service rules and regulations in accordance with the following provisions;

(a) The civil service rules and regulations shall provide:

(1) For the qualifications and examination of all applicants for employment and for the employment of persons on probation.

(2) For the registration of persons, other than unskilled laborers, in the classified civil service, in accordance with their general average standing upon examination.

(3) For promotions on the basis of ascertained merit and seniority in service and examination, and for competitive examinations for promotions.

(4) For the reassignment of persons injured in the service of the district who were at the time of injury actually engaged in the discharge of the duties of their positions.

(5) For leaves of absence.

(6) For the transfer from one position to a similar position of the same class.

(7) For the reinstatement to the list of eligibles on recommendation of the chief executive officer, of persons who have become separated from the service or have been reduced in rank, other than persons who have been removed for cause.

(8) For the keeping of service records of all employees in the civil service, and for their use as one of the bases for promotions or layoffs through stoppage or lack of work.

(9) For the procedure for the removal, discharge or suspension of employees; for the investigation by the board of the grounds thereof, and for the reinstatement or restoration to duty of persons found to have

been removed, discharged or suspended for insufficient grounds or for reasons which are not sustained by investigation.

(10) Generally for any other purpose which may be necessary or appropriate to carry out the objects and purposes of the civil service system and the rules herein specifically authorized.

(b) The following persons may be exempted by the board, by ordinance, from the civil service:

(1) Persons employed to render professional, scientific, technical or expert service of a temporary or exceptional character.

(2) Persons employed on the construction of district works, improvements, buildings or structures.

(3) Persons receiving a salary not exceeding fifty dollars (\$50) a month. Any exemption so made may be terminated at any time by resolution of the board.

Added Stats 1970 ch 1283.

§ 75. Contract for use of county civil service department

Nothing herein contained shall prevent the board from contracting with the County of Humboldt to utilize the services of its civil service commission office or department to effectuate the purposes hereof.

Added Stats 1970 ch 1283.

Cross References:

County civil service: Gov C §§ 31100 et seq.

CHAPTER 6

Tidelands

Section

- 76. Grant of tidelands and submerged lands to district
- 77. Reversionary provisions upon dissolution of district
- 78. Use of ungranted state tidelands and submerged lands

§ 76. Grant of tidelands and submerged lands to district

The state hereby consents to the grant of tidelands and submerged lands from the Cities of Eureka and Arcata to the district as provided by this act. The district shall, upon its establishment in accordance with the provisions of this act, become the successor of the Cities of Eureka and Arcata whose tidelands and submerged lands shall have been included therein with respect to the management, conduct and operation of the harbor and the development and protection of the natural resources of such lands and with respect to the use, possession and title to such lands, and they shall continue to be held and used by the district pursuant to this act.

Added Stats 1970 ch 1283.

Cross References:

Administration and control of tidelands or submerged land: Pub Res C §§ 6301 et seq.

§ 77. Reversionary provisions upon dissolution of district

If the district is dissolved by operation of law, or otherwise, any tidelands and submerged lands granted thereto pursuant to this act, together with any and all improvements thereon, and the management, conduct and operation thereof, reverts to and is revested in the respective grantors. The lands reverting to the grantors pursuant to this section shall be held by the respective grantors in trust subject to the conditions, terms, and purposes of this act.

Added Stats 1970 ch 1283.

§ 78. Use of ungranted state tidelands and submerged lands

- (a) Any ungranted state-owned tidelands and submerged lands located within the district granted by the state to the district upon the

establishment of the district together with those certain tidelands and submerged lands conveyed to the district by the cities of Eureka and Arcata, as provided by this act, shall be held by the district and its successors in trust and may be used for purposes in which there is a general statewide purpose, as follows;

- (1) For the establishment, improvement and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.
- (2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants and facilities.
- (3) For the establishment, improvement and conduct of airport and heliport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.
- (4) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary or convenient for the promotion and accommodation of any of the uses set forth in this section.
- (5) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, public parks, public playgrounds, public bathhouses and public bathing facilities, public recreation and public fishing piers, public recreation facilities, including but not limited to public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.
- (6) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, and for the construction, reconstruction, repair, maintenance and operation of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any of such uses, including but not limited to snack-bars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public, launching ramps and hoists, storage sheds, boat repair facilities with cranes

and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas and other compatible commercial and recreational activities and uses.

(7) For the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the bay and the area, control of dredging or filling of the bay, or both, and prevention of pollution of the bay.

(b) The district or its successors shall not, at any time, grant, convey, give or alienate said lands, or any part thereof, to any individual, firm or corporation for any purposes whatsoever; provided, that said district, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which said lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from such leases, franchises and privileges. Such lease or leases, franchises and privileges may be for any and all purposes which shall not interfere with commerce, navigation, fisheries, and ecological protection.

(c) Said lands shall be improved without expense to the state; provided, however, that nothing contained in this section shall preclude expenditures for the development of said lands for any public purpose not inconsistent with commerce, navigation, fisheries, and ecological protection, by the state, or any board, agency or commission thereof, when authorized or approved by the district, nor by the district of any funds received for such purpose from the state or any board, agency or commission thereof.

(d) In the management, conduct, operation and control of said lands or any improvements, betterments, or structures thereon, the district or its successors shall make no discrimination in rates, tolls or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments or structures constructed upon said lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on said lands with the right of convenient access to said water over said lands for said purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, but excluding sand, gravel

and inert earth and the right to remove said deposits in said lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said lands as are reserved to the state. Use of the interest excepted and reserved to the State of California hereunder shall be made in accordance with and subject to the provisions of Section 6401 of the Public Resources Code, and any amendment thereto.

(h) Such lands are granted subject to the express reservation and condition that the state may at any time in the future use the lands or any portion thereof for highway purposes without compensation to the city, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements, betterments or structures have been placed upon the property taken by the state for such purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements, betterments or structures taken or the damages to such interest.

(i) The State Lands Commission shall, at the cost of the district, survey and monument said lands and record a description and plat thereof in the office of the County Recorder of Humboldt County.

(j) As to any tidelands and submerged lands conveyed to the district by a city which are subject to a condition contained in a grant of said lands to the city by the state that said lands shall be substantially improved within a designated period or else they shall revert to the state, such condition shall remain in effect as to said lands and shall be applicable to the district.

(k) As to any tidelands and submerged lands conveyed to the district by a city which are not subject to such a condition contained in a grant by the state and which have not heretofore been substantially improved, and as to any stateowned tidelands and submerged lands granted to the district pursuant to this act, said lands, within 10 years from the effective date of this act, shall be substantially improved or ecologically enhanced by the district without expense to the state. If the State Lands Commission determines that the district has failed to so improve or enhance said lands as herein required, all right, title and interest of the district in and to said lands shall cease and said lands shall revert and rest in the state.

Added Stats 1970 ch 1283.

Cross References:

Administration and control of tidelands or submerged land: Pub Res C §§ 6301 et seq.

CHAPTER 7

Changes of Organization

§ 79. Organizational changes.

The district shall be subject to the provisions of the District Reorganization Act of 1965 (Division 1 (commencing with Section 56000) of Title 6 of the Government Code).

Added Stats 1970 ch 1283.

Editor's Notes—Government Code §§ 56000 et seq. are now the Cortese-Knox Local Government Reorganization Act, which combines the former District Reorganization Act with two other former laws to produce a single, unified law for boundary changes by California local governments.

CHAPTER 8

Miscellaneous

Section

- 80. Successor to local government powers
- 81. Cessation of local government offices whose power and duties are within those of a district
- 82. Application of act to freeholder charter municipal corporations
- 83. Nonapplication of act to state crossings or state highways
- 84. Severability provision

§ 80. Successor to local government powers

Whenever the district is established under the provisions of this act it is the successor of the county and each of the cities included therein as to all powers theretofore vested in the county or each such city or exercisable by its officers, which are by the provisions of this act granted to the district or are exercisable by its officers. Such powers are relinquished by the county and the cities and surrendered to the district. The title to, and possession and control of, any works, structures, appliances, improvements and equipment of the kinds designated in this act, owned or held by or in trust for the county and each of the cities, or by any officer or board thereof, in trust or otherwise, for any purpose for which the district is authorized to acquire and use property pursuant to this act, are upon the establishment of the district, transferred to and vested in the district and are thereafter owned, operated and controlled by the district pursuant to this act.

Added Stats 1970 ch 1283.

§ 81. Cessation of local government offices whose power and duties are within those of a district

Upon the establishment of the district, all persons then occupying the several offices of or under the government, of the county and each of the cities included therein, except as otherwise provided, whose several powers and duties are within the powers of the district or within the

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powers or duties of the several officers thereof, shall immediately quit and surrender the occupancy or possession of such offices which shall thereupon cease and determine, except as to any persons who have powers and perform duties for the county and the cities other than those mentioned, whose offices shall not cease and determine as to such other powers and duties but shall continue with respect thereto the same as if the district had not been established.

Added Stats 1970 ch 1283.

§ 82. Application of act to freeholder charter municipal corporations

The provisions of this act shall apply to any municipal corporation which is governed under a freeholders' charter even if such provisions are inconsistent with the charter or its amendments, it being hereby declared that such provisions are a matter of statewide concern and are to prevail over any inconsistent provisions in any such charter. If the district is dissolved by operation of law or otherwise, any works, structures, appliances, improvements and equipment are vested in such municipal corporation, together with any other works, structures, appliances, improvements and equipment acquired or constructed by the district in that portion of the district within the limits of each such municipal corporation respectively.

Added Stats 1970 ch 1283.

Cross References:

City or city and county charters: Gov C §§ 34450 et seq.

§ 83. Nonapplication of act to state crossings or state highways

Nothing in this act shall apply to the location, design, right-of-way acquisition, or construction of any state crossing of Humboldt Bay nor to any route presently on or hereafter added to the state highway system.

Added Stats 1970 ch 1283.

Cross References:

State highway system: Sts & Hy C §§ 50 et seq.

§ 84. Severability provision

If any section, subdivision, sentence, clause, or phrase of this act, or the application thereof to any person or circumstances, is for any reason held invalid, the validity of the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby. The Legislature hereby declares that it would have passed this act, and each section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that one or more sections,

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APPENDIX II

subdivision, sentences, clauses or phrases, or the application thereof to any person or circumstance, be held invalid.

Added Stats 1970 ch 1283.

Collateral References:

Cal Jur 3d Statutes § 15.