

YUBA COUNTY WATER AGENCY ACT

(West's Water Code Appendix chapter 84; current through 2015)

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An act to create the Yuba County Water Agency, to develop and promote the beneficial use and regulation of the water resources of Yuba County, prescribing the agency's powers and duties, providing for its organization, operation and management and authorizing the acquisition of property and works to carry out the purposes of the agency, authorizing the incurrence of indebtedness, providing for the issuance of bonds payable solely from revenues, providing for the levy and collection of taxes for the payment of general agency expenses, and for co-operation and contracts with any entity. (Stats.1959, c. 788, p. 2780.)

Cross References

Procedure for letting contracts, see Public Contract Code § 21351.

§ 84-1. Creation; name; territory

Section 1. A district hereinafter called an agency is hereby created for the purpose of accomplishing a function of statewide importance. Said agency shall be known as the Yuba

County Water Agency and shall include all territory lying within the exterior boundaries of the County of Yuba, and shall also include territory contiguous to but outside said boundaries which becomes or is included within a member unit as hereinafter defined.
(Stats.1959, c. 788, p.2780, § 1.)

Cross References

Boundaries of Yuba County, see Government Code § 23158.

§ 84-2. Definitions

Sec. 2. As used in this act, the following words shall have the following respective meanings unless the context indicates otherwise:

- (a) "Agency" is the Yuba County Water Agency.
- (b) "County" or "principal county" is the County of Yuba of the State of California.
- (c) "United States" is the United States of America including any one or more of the bureaus, commissions, divisions, departments, boards, agencies, and officers of the United States of America.
- (d) "State" means the State of California including any one or more of the bureaus, commissions, divisions, departments, boards, agencies, and officers of the State of California.
- (e) "Work" or "works" includes dams and dam sites, reservoirs and reservoir sites, and all conduits and other facilities useful in the control, conservation, diversion and transmission of water; power generation and transmission facilities, and all land, property, franchises, easements, rights-of-way and privileges necessary or useful to operate or maintain any of the foregoing.
- (f) "District" as used hereafter means any of the following lying within or partially within, or contiguous to the agency: irrigation districts, county water districts, water conservation districts, water districts, soil conservation districts, municipalities, towns, flood control districts, levee districts, mutual water companies, public utilities as defined in Section 216 of the Public Utilities Code, and any other districts or political subdivisions of the state empowered by law to appropriate water and deliver water to water users.
- (g) "Member unit" means any district which enters into a contract with the agency for (i) the repayment in whole or in part to the agency or any other person, corporation, public district, State of California or any political subdivision thereof, or the United States, of any or all the construction costs of any works constructed by or on behalf of the agency or such district, or for (ii) the underwriting in whole or in part of any or all of such construction costs, or for (iii) the repayment in whole or in part to the agency or any other person, corporation, public district, State of California or any political subdivision thereof, or the United States, of any or all of the cost of furnishing water or a water supply to the agency or such district or the underwriting in whole or in part of such cost, or for (iv) the payment in whole or in part for water to be furnished or sold to such district by the agency or the United States.
- (h) "Elector" means a resident of the agency who is qualified under the laws of the State of California to vote at a general election.
- (i) "May" is permissive and "shall" is mandatory.
- (j) "Board" means the board of directors of the agency.

(Stats.1959, c. 788, p. 2780, § 2. Amended by Stats.1978, c. 914, p. 2876, § 1.)

§ 84-3. Body politic and corporate; general powers; exercise of powers

Sec. 3. The Yuba County Water Agency is hereby declared to be and is a body politic and corporate, and as such shall have, among others, the powers enumerated in this act and such other powers as the law may provide. The powers of the agency shall, except as otherwise provided, be exercised by the board of directors thereof.
(Stats.1959, c. 788, p. 2781, § 3.)

§ 84-3.1. Perpetual succession

Sec. 3.1. The agency shall perpetual succession.
(Stats.1959, c. 788, p. 2781, § 3.1.)

§ 84-3.2. Seal

Sec. 3.2. The agency shall have the power to adopt a seal and alter it at its pleasure.
(Stats.1959, c. 788, p. 2782, § 3.2).

§ 84-3.3. Actions

Sec. 3.3. The agency shall have the power to sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts, commissions, boards and tribunals of competent jurisdiction.
(Stats.1959, c. 788, p. 2782, § 3.3.)

§ 84-3.4. Eminent domain

Sec. 3.4. The agency shall have the power of eminent domain to acquire within or without the agency any property necessary for carrying out the powers and purposes of the agency, except that the agency shall not have the power to acquire by condemnation publicly owned property, nor property owned by private irrigation companies, held or used for the development, storage or distribution of water for public use, unless provision is made to furnish substitute facilities for the use of such public agency or private irrigation company.

In lieu of compensation and damages for the taking or damaging of any public utility facility which must be replaced by the public utility to provide service to the public equivalent to that provided by the facility taken or damaged, the agency shall pay to the public utility owning such facility its actual cost incurred to replace in kind the facility so taken or damaged, less proper deductions for depreciation together with its actual cost incurred to rearrange or rehabilitate the facilities of such public utility not taken or damaged but required to be rearranged or rehabilitated by reason of such taking or damaging.

No action in eminent domain to acquire property or interests therein outside the boundaries of the county of Yuba shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution.
(Stats.1959, c. 788, p. 2782, § 3.4. Amended by Stats.1975, c. 581, p. 1171, § 18.)

**Law Revision Commission Comment
1975 Amendment**

The deleted portions of Section 3.4 [Water C.App. § 84-3.4] are superseded by provisions of the Eminent Domain Law. See Code Civ.Proc. §§ 1230.020 (uniform procedure), 1240.610 et seq. (more necessary public use), 1240.010 (declaration that a use is a public use is unnecessary), 1240.110 (right to take any property or any right or interest in property), 1250.210 (identification of plaintiff). See also Code Civ.Proc. §§ 1240.040 and 1245.210 et seq. (resolution of necessity), 1235.170 (“property” defined).

Historical and Statutory Notes

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

§ 84-3.5. Property acquisition; use; disposal

Sec. 3.5. The agency shall have the power to take absolutely or on condition, by grant, purchase, gift, devise, lease, or otherwise, with or without the privilege of purchasing, real and personal property of any kind, or any interest in real or personal property, within or without the agency, necessary to the full exercise of its powers, and to hold, use, enjoy, and to lease or dispose of the same subject to the limitations set forth in Section 11. (Stats.1959, c. 788, p. 2782, § 3.5.)

§ 84-3.6. Contracts; employment of labor; necessary acts; construction

Sec. 3.6. The agency shall have the power to make contracts, employ labor and to do all acts necessary for the full exercise of its purposes and powers. The board may cause construction or other work to be performed or carried out by contracts or by the agency under its own superintendence as hereinafter provided. (Stats.1959, c. 788, p. 2783, § 3.6.)

§ 84-3.7. Contracts for water service

Sec. 3.7. The agency shall have power to enter into contracts with any private company formed and existing exclusively to provide water service within Yuba County whenever such contract appears to the board to be in the public interest. (Stats.1959, c. 788, p. 2783, § 3.7.)

§ 84-3.8. Indebtedness

Sec. 3.8. The agency shall have power to borrow money, incur indebtedness and issue bonds or other evidence of such indebtedness in the manner provided herein; also to refund or retire any indebtedness or lien that may exist against the agency or property thereof. (Stats.1959, c. 788, p. 2783, § 3.8.)

§ 84-4. Availability of water supply; necessary acts

Sec. 4. The agency shall have the power as limited in this act to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the agency, including, but not limited

to irrigation, domestic, fire protection, municipal, commercial, industrial, recreation, and all other beneficial uses and purposes.
(Stats.1959, c. 788, p. 2783, § 4.)

§ 84-4.1. Hydroelectric power; development; sale.

Sec. 4.1. The agency shall have the power to develop hydroelectric power to the extent that such power can be developed in connection with the construction and operation of its projects, and to enter into contracts for the sale thereof for a term not to exceed 50 years, and to pledge the revenue therefrom for the payment of principal and interest on revenue bonds. Such power may be marketed at the bus bar and at wholesale rates to any public or private agency, or both, engaged in the sale of electric power at retail.
(Stats.1959, c. 788, p. 2783, § 4.1.)

§ 84-4.2. Flood control; conservation

Sec. 4.2. The agency shall have the power to control the flood and storm waters of the agency and the flood and storm waters of streams that have their sources outside of the agency, which streams and floodwaters flow into the agency, and to conserve such waters for beneficial and useful purposes of said agency by spreading, storing, retaining and causing to percolate into the soil within or without said agency, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters the watercourses, watersheds, public highways, life and property in said agency, and the watercourses outside of the agency of streams flowing into the agency.
(Stats.1959, c. 788, p. 2783, § 4.2.)

§ 84-4.3. Storage of water; conservation and reclamation; actions involving use of waters or water rights.

Sec. 4.3. The agency shall have the power to store water in surface or underground reservoirs within or outside of the agency for the common benefit of the agency; to conserve and reclaim water for present and future use within the agency; to appropriate and acquire water and water rights, and import water into the agency and to conserve and utilize, within or outside of the agency, water for any purpose useful to the agency; to commence, maintain, intervene in, defend or compromise, in the name of the agency in behalf of the landowners therein, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights, within or without the agency, used or useful for any purpose of the agency or of common benefit to any land situate therein or involving the wasteful use of water therein, or to prevent the interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the agency or of common benefit to the lands within the agency or to its inhabitants, or to prevent unlawful exportation of water from said agency, or to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used in said agency, and to commence, maintain and defend actions and proceedings to prevent any such interference with such waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the agency; except that the agency shall have no power to intervene or take part in, or to pay the costs or expense of, actions or controversies between the owners of lands or water rights which do not affect the interests of the agency.

(Stats.1959, c. 788, p. 2783, § 4.3.)

§ 84-4.4. Acquisition of works, waters and water rights

Sec. 4.4. The agency shall have the power within or outside the agency to construct, purchase, lease, or otherwise acquire works and to purchase, lease, appropriate or otherwise acquire water and water rights useful or necessary to make use of water for any purposes authorized by this act.

(Stats.1959, c. 788, p. 2784, § 4.4.)

§ 84-4.5. Operation and maintenance of works and property

Sec. 4.5 The agency shall have the power to operate, repair, improve, maintain, renew, replace and extend all works and property of the agency.

(Stats.1959, c. 788, p. 2784, § 4.5.)

§ 84-4.6. Investigations; studies

Sec. 4.6. The agency shall have the power to carry on technical and other necessary investigations, make measurements, collect data, make analyses, studies, and inspections pertaining to water supply, water rights, control of flood and storm waters, and use of water both within and without said agency relating to watercourses or streams flowing in or into said agency.

(Stats.1959, c. 788, p. 2784, § 4.6.)

§ 84-4.7. Transmission of electric energy

Sec. 4.7. The agency shall have the power to construct its pipes, pipelines, flumes and tunnels and other conduits, including facilities for the transmission of electric energy to the works of the agency, along, under or across any public road, street, alley, avenue, highway or sidewalk, or across any stream of water, watercourse, railway, canal, ditch, or flume which the route of said pipes, pipelines, canals, flumes, tunnels, or other conduits may intersect or cross, except that such works shall be constructed in compliance with any applicable laws and in such manner as to afford security for life and property and the agency shall restore at its own expense any such crossings and intersections to their former state as nearly as may be or to an extent which does not unnecessarily impair their usefulness. Every company, municipality, or district whose right-of-way shall be intersected or crossed by said pipes, pipelines, canals, flumes, tunnels or other conduits shall unite with the agency in forming said intersections and crossings and grant the rights therefor.

(Stats.1959, c. 788, p. 2784, § 4.7.)

§ 84-4.8. Blank

§ 84-4.9. Repealed by Stats.1975, c. 585, p. 1244, § 36

Law Revision Commission Comment

1975 Repeal

Section 4.9 [Water C.App. § 84-4.9] is superseded by Section 1240.330 of the Code of Civil Procedure and Section 861 of the Public Utilities Code.

Historical and Statutory Notes

The repealed section, added by Stats.1959, c. 788, § 4.9, related to relocation of an improvement or works. Operative effect of 1975 repealer, see note under § 40-39.

§ 84-4.10. Reimbursement of county for expenses.

Sec. 4.10. The agency may reimburse the county for any funds expended by the county in investigations, elections, or other acts incidental to the establishment and purposes of the agency.

(Stats.1959, c. 788, p. 2785, § 4.10.)

§ 84-4.11. Contracts for sale of right to use falling water for power purposes

Sec. 4.11. In connection with the construction and operation of the works of the agency, the agency shall have the power to contract for a term not to exceed 50 years, for the sale of the right to use falling water for power purposes with any public or private entity, engaged in the sale of electric power at retail.

(Stats.1959, c. 788, p. 2785, § 4.11.)

§ 84-4.12. Use of water for development of county in which water originates

Sec. 4.12. Nothing contained in this act shall deprive a county in which water originates of any water necessary for the development of such county.

(Stats.1959, c. 788, p. 2785, § 4.12.)

§ 84-4.13. Hydroelectric alternate energy supply sources

Sec. 4.13. The agency may develop hydroelectric alternate energy supply sources under 75 megawatts in accordance with Chapter 3.2 (commencing with Section 4217.10) of Division 5 of Title 1 of the Government Code.

(Added by Stats.1985, c. 314, § 2.)

Historical and Statutory Notes

Section 4 of Stats.1985, c. 314, provides: "Sections 1 and 3 of this act shall not become operative if Senate Bill 245 of the 1985-86 Regular Session [Stats.1985, c. 1054] is enacted and becomes operative."

§ 84-5. Transfer of water or rights to sue agency works; charges; contract provisions

Sec. 5. Any water or rights to the use of the works of the agency for the conservation, control or transportation of water may be sold, leased or otherwise transferred by the agency to member units, and the agency may fix and collect rates and charges for such purposes. The agency may transfer such water or the use of agency works to other than member units

for use in or outside the agency upon a temporary or short-term basis, upon a finding by the board that such water or works exceed the needs of member units. Each contract for or sale of surplus water or the use of such water facilities shall expressly state that the sale or disposition is subject to the prior right to the use of such water or facilities by or for member units.

(Stats.1959, c. 788, p. 2785, § 5.)

§ 84-5.1. Contracts with member units; purposes

Sec. 5.1. The agency may enter into contracts with any member unit or with any district which becomes a member unit of the agency for any of the following purposes:

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

(b) The construction of works by the agency for the conservation, regulation or transmission of water for the benefit of such member unit or district; or for the furnishing or sale by the agency or the State of California or the United States to such member unit or by such member unit to the agency of water or a water supply for any purpose.

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

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

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

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

(3) There shall not be delivered to any member unit more than the amount to which such member unit is entitled under the contract entered into by the agency and such member unit, except that the release of water from any reservoir in the amount required to satisfy any vested right shall not constitute a delivery of water, and any amount of water assigned under Section 5.6 by one member unit to another member unit shall be delivered to the latter.

(e) No contract may be entered into between the agency and a member unit which provides for the sale of project water for agricultural purposes, industrial purposes, or for power plant cooling purposes upon any term or condition more favorable than the same term or condition contained in the agricultural water contracts entered into between the agency and member units prior to January 1, 1978.

Stats.1959, c. 788, p. 2786, § 5.1. Amended by Stats. 1978, c. 914, p. 2877, § 2.)

§ 84-5.2. Long-term contracts; sale of surplus water; public hearings

Sec. 5.2. (a) The agency may enter into long-term contracts for the sale of water, for use outside the boundaries of the agency by other than a member unit, if the board of directors determines that the transferred water is surplus to the amount of water available to meet the contractual requirements of member units.

(b)(1) Before the board may enter into a contract pursuant to subdivision (a), it shall hold a public hearing to receive oral and written comments on the transfer proposal.

(2) The board shall provide notice of the hearing by publication in a newspaper of general circulation once a week for two consecutive weeks prior to the hearing, with the last publication being at least seven days before the hearing.

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

(c) A long-term contract for the sale of water pursuant to this section shall not be implemented until the state board, pursuant to Section 386 of the Water Code, finds that the water transfer may be made without injuring any legal user of the water, without unreasonably affecting fish, wildlife, or other instream beneficial use, and without unreasonably affecting the overall economy of the area from which the water is to be transferred.

(Stats.1959, c. 788, p. 2786, § 5.2. Amended by Stats.1993, c. 801 (A.B. 1316), § 1.)

Historical and Statutory Notes

The Senate Daily Journal for the 1993-94 Regular Session, page 2658, contained the following letter dated 8/16/93 to Assembly Member Richter regarding the intent of A.B. 1316 (Stats.1993, c. 801):

“As you know, we are the attorneys for Yuba County Water Agency. You have introduced AB 1316 at the request of the Agency. It would amend the provisions of the Yuba County Water Agency Act concerning long-term water transfers.

“The Department of Water Resources has raised the question whether the phrase at page 2 of AB 1316, lines 25-28, which reads, ‘if the board of directors determines that he transferred water is surplus to the amount of water available to meet the contractual requirements of member units’, could be construed to not authorize the transfer of water within the contractual requirement of a member unit, even if such water were made available for transfer by a water user within the member unit agreeing to forgo use of the water for the duration of the transfer, and the Agency, the member unit and the water user agreed to the terms of the transfer. In the past, member units of the Agency, pursuant to agreements among the Agency, member units and water users, transferred to the Governor’s Water Bank water that otherwise would have been delivered to them pursuant to such contractual requirements and that was made available by their water users agreeing to forgo the use of the water instead by pumping groundwater. The Department of Water Resources wants to be sure that the amendments propose under AB 1316 would not prevent similar transfers from occurring in the future.

“This letter is to confirm the intent of Yuba County Water Agency that AB 1316 would not prevent similar transfers from occurring in the future.

“This letter is to confirm the intent of Yuba County Water Agency that AB 1316 would not prevent a member unit or water user within a member unit from transferring, on terms agreed to by the Agency, the member unit and the water

user, water that otherwise would be available for their use pursuant to contractual requirements with the Agency, by forgoing its use of that water. We believe that the Yuba County Water Agency Act, as amended by AB 1316, would be read to be consistent with other provisions of the Water Code that include within the definition of ‘surplus water’, water made available when a water user forgoes its use on terms agreed to by the water supplier and water user. For example, see Water Code Sections 383 and 1745-1745.11.

“We would appreciate you including a copy of this letter in the file for AB 1316, to reflect the author’s intent on this issue.”

§ 84-5.3. Suspension of delivery of water to delinquent member units

Sec. 5.3. The agency in its discretion may suspend delivery of water conserved by the agency or obtained by or on behalf of the agency or a member unit to any member unit during the period which said member unit is delinquent in its payment for or obligations due in respect to such water under any contract entered into by it with the agency. (Stats.1959, c. 788, p. 2787, § 5.3.)

§ 84-5.4. Liability of member units for taxes; contract provisions

Sec. 5.4. The liability of each member unit, as distinguished from the liability of its taxpayers and property therein for taxes levied by the agency for agency purposes, shall be limited to that portion of the total cost for water or water supply or to that portion of the total cost of construction and the operation and maintenance cost of the works acquired or constructed by or on behalf of the agency or member unit which such member unit agrees to bear.

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

Each contract may provide, among other things:

- (a) The total capital obligation which the member unit agrees to bear.
- (b) The minimum annual payments which the member unit shall make in amortization of its capital obligation.
- (c) The amount or pro rata portion of water which shall be delivered to or held in storage for the member unit.
- (d) The basis of allocation of operation and maintenance costs to be borne by the member unit.
- (e) The amount or other measure of water supply or water agreed to be acquired by or furnished or sold to such member unit and the cost thereof to such member unit.

Such contracts shall be executed in accordance with the laws governing such districts. (Stats.1959, c. 788, p. 2787, § 5.4.)

§ 84-5.5. Reduction of obligations

Sec. 5.5. (a) In the event of any reduction in the principal of any debt of the agency underwritten by one or more member units, order than by payment thereof, the amounts to be paid to the agency by each member unit in amortization of its remaining portion of such debt shall be reduced proportionately so that the relative obligations of each such member unit shall be unchanged.

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

obligation of each such member unit remains unchanged in respect to its obligation to pay any remaining interest.

(c) In determining the amounts which member units shall pay for water due consideration shall be given to revenues to be derived from the sale of electric energy. All main water conduits to member districts' boundaries shall be included in the feasibility report and considered as part of the agency project.
(Stats. 1959, c. 788, p. 2787, § 5.5.)

§ 84-5.6. Assignment of rights by member units

Sec. 5.6. Any member unit may reduce its obligations under its contract with the agency by assignment to and acceptance by another member unit of any part of its right to receive water under its contract except that the assignment shall be legally approved, in accordance with the laws governing such member unit, by each member unit which is a party to the assignment. The total of all payments to be made by such member units to the agency shall not be reduced by virtue of the assignment and the assignor member unit may be required by the agency to guarantee the payments assumed by the assignee member unit.
(Stats.1959, c. 788, p. 2788, § 5.6.)

§ 84-5.7. Sale or disposal of capital assets; use of proceeds

Sec. 5.7. If any capital asset of the agency is sold or otherwise disposed of, the net proceeds therefrom shall be distributed to the member units, or applied against any liability of the member units to the agency in proportion to the amount contributed by each member unit to the cost of the capital asset. However, if any liability on the part of the agency or its member units for the original cost or any subsequent improvement or refinancing of such capital asset is not completely extinguished at or before the time of the sale or disposal thereof, the agency may apply as much of the proceeds of the sale as are necessary to extinguish the liability. In extinguishing such liability, the proceeds of the sale shall be applied only as the interests and liabilities of the agency and its member units shall appear.
(Stats.1959, c. 788, p. 2788, § 5.7.)

§ 84-6. Cooperation and contracts with United States; reclamation

Sec. 6. The agency shall have the power to co-operate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof and supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting co-operation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation and maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the agency, and for said purposes the agency shall have, in addition to the powers set forth in this act, all power, rights and privileges possessed by irrigation districts as set out in Chapter 2 (commencing at Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.
(Stats.1959, c. 788, p. 2788, § 6.)

§ 84-6.1. United States contract fund; use

Sec. 6.1. All money collected in pursuance of contract with the United States shall be paid into the county treasury to the credit of the agency and shall be held in a fund to be known as the "United States contract fund" to be used for payments due to the United States under contract.

(Stats.1959, c. 788, p. 2789, § 6.1.)

§ 84-6.2. Cooperation with United States, state, municipalities, districts, etc.; contracts

Sec. 6.2. The agency may co-operate and act in conjunction and contract with the United States, State of California, any municipality, district, public or private corporation, or any person, in the purchase and sale of water, in the acquisition of water or a water supply, in the construction of any works for the controlling of flood or storm waters in the agency, or for the protection of property, watersheds, watercourses, highways and life, or for the purpose of conserving and transporting said waters for beneficial uses and purposes, including recreational uses and the generation of electric energy, and for the use, operation and management and ownership of such works. The agency also may make and perform any agreement with the United States, the State, any county, municipality, district, public or private corporation, or any person for the joint acquisition, disposition, operation or management of any property, works, water or water supply of a kind which might be acquired, disposed of, or operated by the agency.

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

(a) Co-operate, act in conjunction with and enter into contracts with the agency for all the purposes for which the agency is empowered to act.

(b) Carry out the terms of such contracts.

(Stats.1959, c. 788, p. 2789, § 6.2)

§ 84-6.3. Contracts with state or agency for assumption of indebtedness

Sec. 6.3. The agency shall have the power to contract with the State of California or any agency thereof for the assumption, as principal guarantor, of indebtedness to the State of California or any agency thereof for carrying out any of the purposes of the agency. The power to borrow money and assume such liability shall not be subject to Sections 12 and 13 of this act.

(Added by Stats.1964, 1st Ex.Sess., c. 10, p. 114, § 1.)

§ 84-7. Directors; compensation; powers; quorum

Sec. 7. (a)(1) The board of directors shall consist of seven members. The members of the board of supervisors of the county shall be ex officio members of the board of directors of the agency. Two members of the board of directors shall be elected by the voters in accordance with this section. Each elected director shall be a registered voter, a resident of the county, and eligible to hold elected office. One elected director shall reside north of the Yuba River.

The other elected director shall reside south of the Yuba River and shall be elected by voters residing south of the Yuba River.

(2) Notwithstanding paragraph (1), the board of directors shall, by resolution, adjust the boundaries of the geographical areas from which the two directors are elected to create two divisions pursuant to Chapter 8 (commencing with Section 22000) of Division 21 of the Elections Code.

(b) The term of office of the two elected directors shall be four years, except that the initial terms of office shall be staggered with one director, chosen by lot, serving for a term of two years. The two elected directors shall initially be elected at the general election held on November 6, 1990, and shall take office at the first meeting of the board of directors after January 1, 1991. One elected director shall thereafter be elected at each statewide primary election held in an even-numbered year, except that if no candidate receives more than 50 percent of the votes cast for the office at that election, the two candidates receiving the highest number of votes for the office shall be on the ballot at the general election held the following November. The elected directors shall take office at the first meeting of the board of directors after the first day of January following their election.

(c) Directors shall be entitled to receive from the agency the sum of twenty dollars (\$20) for each meeting attended, plus actual, necessary and reasonable traveling expenses. The basis for compensation of the directors, and the amount thereof, may be altered only by a five-sevenths vote of the directors. The board of directors may adopt reasonable rules and regulations to carry out its powers and duties. The board of directors shall elect a chairperson and vice chairperson. The chairperson shall preside at all meetings of the board and in case of his or her absence or inability to act, the vice chairperson shall preside. In case of the absence of the chairperson and vice chairperson or their inability to act, the members present shall, by an order entered in the records, select a member to act as temporary chairperson. Any member of the board may administer oaths when necessary in the performance of his or her official duties. A majority of the members of the board shall constitute a quorum for the transaction of business, but no act of the board shall be valid or binding unless a majority of all members concur therein.

(Stats.1959, c. 788, p. 2789, § 7. Amended by Stats.1979, c. 719, p. 2240, § 1; Stats.1989, c. 414, § 1; Stats.1990, c. 405 (A.B.3786), § 1; Stats.1998, c. 435 (A.B. 2543), § 23.)

Historical and Statutory Notes

Section 2 of Stats.1989, c. 414, provides: "The Yuba County Water Agency Advisory Council is hereby abolished."

§ 84-7.1. Repealed by Stats.1971, c. 189, p. 257, § 1

Historical and Statutory Notes

The repealed section, added by Stats.1959, c. 788, § 7.1 prohibited directors from having an interest in contracts.

§§ 84-7.2 to 84-7.4. Repealed by Stats.1963, c. 1685, pp. 3309, 3310, §§ 41 to 43

Historical and Statutory Notes

The repealed sections, added by Stats.1959, c. 788, p. 2790, §§ 7.2 to 7.4, related to liability of directors, officers, agents, or employees.

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

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

§ 84-8. County officers and employees as officers and employees of agency; performance of duties

Sec. 8. All officers of the county, and their assistants, deputies, clerks, and employees, shall be ex officio officers, assistants, deputies, clerks and employees respectively of the agency, and shall perform, unless otherwise provided by the board, the same duties for the agency as performed for the county; except that if the county surveyor is a registered civil engineer and is employed to supervise the engineering work of the agency, the board may provide compensation for his services in addition to his salary as county surveyor which shall be payable from the funds of the agency.

(Stats.1959, c. 788, p. 2791, § 8.)

§ 84-8.1. Employment of additional personnel

Sec. 8.1. The board may employ agents, superintendents, engineers, attorneys, and employees necessary to carry out the provisions of this act.

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

(Stats.1959, c. 788, p. 2791, § 8.1.)

§ 84-9. Ordinances, resolutions and other legislative acts; initiative and referendum

Sec. 9. All ordinances, resolutions and other legislative acts of the agency shall be adopted by the board, and certified to, recorded and published in the same manner, except as herein otherwise expressly provided, as are ordinances, resolutions or other legislative acts of the county.

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

(Stats.1959, c. 788, p. 2791, § 9.)

Cross References

County initiative and referendum, see Elections Code § 9100 et seq.

County ordinances, see Government Code § 25120 et seq.

§ 84-10. Claims against the agency; law governing; preparation; presentation; audit

Sec. 10. Claims for money or damages against the agency are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body, and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county.

(Added by Stats.1961, c. 2011, p. 4221, § 2. Amended by Stats.1963, c. 1715, p. 3422, § 148.)

Historical and Statutory Notes

Former § 84-10, added by Stats.1959, c. 788, p. 2791, § 10, relating to claims against agency, was repealed by Stats.1961, c. 2011, p. 422, § 1. Applicability of Stats.1963, c. 1715, p. 3369, see Historical and Statutory Notes under Government Code § 900.

§ 84-11. Property

Sec. 11. The legal title to all property acquired under the provisions of this act shall be in the agency and shall be held for the uses and purposes of this act. The board may hold, use, acquire, manage, occupy and possess such property and, after declaring by resolution entered in the minutes that any real or personal property held by the agency is no longer necessary, may sell or otherwise dispose of such property, or lease the same, in the manner provided by law for the disposition and sale of property by counties.

(Stats.1959, c. 788, p. 2791, § 11.)

Cross References

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

§§ 84-12, 84-12.1. Repealed by Stats.1984, c. 1128, §§ 144, 145

Historical and Statutory Notes

Former § 84-12, added by Stats.1959, c. 788, § 12, related to requirements for contracts.

Former § 84-12.1, added by Stats.1966, 1st Ex.Sess., c. 7, § 1, related to rejection of bids. See, now, Pub. Con. C. § 21351.

§ 84-13. Debt limit

Sec. 13. The agency shall not incur any indebtedness or liability exceeding in any year the income and revenue provided for such year, and any indebtedness or liability incurred in violation of this section shall be absolutely void and unenforceable. This section shall have no application to debts or liabilities incurred for feasibility reports nor to indebtedness incurred pursuant to the provisions of this act authorizing the issuance of

bonds, the execution of contracts with the United States, nor the incurring of any indebtedness or liability authorized by a vote of the electors of the agency at an election held for such purpose. This section shall have no application to debts or liabilities incurred for the employment of officers, agents, and employees pursuant to Section 8.1.

(Stats.1959, c. 788, p. 2792, § 13. Amended by Stats.1964, 1st Ex.Sess., c. 9, p. 113, § 1.)

§ 84-13.1. Bonded indebtedness; limitation

Sec. 13.1. The agency shall have no power to incur any bonded indebtedness except as provided in Section 16.

(Stats.1959, c. 788, p. 2792, § 13.1.)

§ 84-14. Ad valorem tax; purposes; limitation

Sec. 14. If from any cause, the revenues of the agency shall be, or in the judgment of the board are likely to be, inadequate to pay the expenses, costs, liabilities and indebtedness of the agency, the board shall have the power in any year to levy an ad valorem tax upon all taxable property in the agency to pay the costs and expenses of the agency to carry out the provisions of this act, except that the aggregate taxes levied for any one fiscal year shall not exceed ten cents (\$0.10) on each one hundred dollars (\$100) of the assessed valuation of the taxable property in the agency.

(Stats.1959, c. 788, p. 2792, § 14.)

§ 84-14.1. Assessments; collection of taxes

Sec. 14.1. The board shall avail itself of the assessments made by the assessors of the counties within which the agency or any parts thereof are situated, and of the assessments made by the State Board of Equalization for those counties, and shall take such assessments as a basis for agency taxation and have its taxes collected by the county officials if the board declares its election so to do by resolution or ordinance and files a certified copy of the resolution or ordinance on or before the first day of August with the auditors of the counties in which the agency or any parts thereof are situated. Thereafter, each year and until otherwise provided by the board, all assessments shall be made for the agency by the State Board of Equalization and the county assessors, and all taxes shall be collected for the agency by the tax collectors of the counties in which the agency or any part thereof is situated.

(Stats.1959, c. 788, p. 2793, § 14.1.)

Cross References

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

§ 84-14.2. Statement of total value of property within agency

Sec. 14.2. The county auditor shall on or before the third Monday in August of each year, transmit to the board a statement in writing showing the total value of all property within the agency, ascertained from the assessments referred to in Section 14.1 as equalized.

(Stats.1959, c. 788, p. 2793, § 14.2)

§ 84-14.3. Tax rate; levy

Sec. 14.3. The board shall on or before the first weekday in September, or if such weekday falls upon a holiday, then on the first business day thereafter, subject to the provisions of Section 14, fix the rate of taxes, designating the number of cents upon each hundred dollars, using as a basis the value of property transmitted to the board by the county auditors, which rate of taxation, subject to the limitations of Section 14, shall be sufficient to raise the amount previously fixed by the board. These acts by the board shall constitute a valid assessment of the property and a valid levy of the taxes so fixed.
(Stats.1959, c. 788, p. 2793, § 14.3.)

§ 84-14.4. Statement of tax rate; transmittal to county auditors

Sec. 14.4. The board shall immediately after fixing the rate of taxes as above provided transmit to the county auditors of the counties in which the agency or any portion thereof is situated a statement of the rate of taxes fixed by the board.
(Stats.1959, c. 788, p. 2793, § 14.4.)

§ 84-14.5. Time and manner of collection of taxes; payment to treasurer of principal county

Sec. 14.5. The agency's taxes so levied shall be collected at the same time and in the same manner as county taxes. When collected, the net amount, ascertained as provided in this act, shall be paid to the treasurer of the principal county under the general requirements and penalties provided by law for the settlement of other taxes.
(Stats.1959, c. 788, p. 2793, § 14.5)

Cross References

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

§ 84-14.6. Apportionment of money paid for redemption from tax sales.

Sec. 14.6. Whenever any real property situated in the agency has been sold for taxes due to the agency and has been redeemed, the money paid for redemption shall be apportioned and paid to the agency by the county auditor receiving it in accordance with the provisions of Chapter 1c (commencing at Section 4656) of Part 8 of Division 1 of the Revenue and Taxation Code.
(Stats.1959, c. 788, p. 2793, § 14.6.)

§ 84-14.7. Lien of tax; enforcement of collection

Sec. 14.7. All taxes levied under this act are a lien on the property on which they are levied. Unless the board has by ordinance otherwise provided, the enforcement of the collection of such taxes shall be in the same manner and by the same means provided by law for the enforcement for county taxes, all the provisions of law relating to the enforcement of the latter being made a part of this act so far as applicable.
(Stats.1959, c. 788, p. 2793, § 14.7.)

§ 84-15. Bonds; resolution; special bond election; liability of member units

Sec. 15. (a) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work of improvement for the benefit of any member unit, as determined in an agreement between the agency and the member unit, it may determine and declare by resolution the amount of bonds necessary to be issued in each member unit affected for such work of improvement. The board shall cause a copy of the resolution duly certified by the clerk to be filed with the governing board of such member unit.

(b) After such resolution is filed, the governing board of such member unit may call a special bond election to be held and conducted in the member unit in accordance with the laws applicable to the holding of such elections in such member units; but the adoption or filing of such resolution shall not be a condition precedent to the calling of special bond elections by member units.

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

(Stats.1959, c. 788, p. 2794, § 15.)

§ 84-16. Bonds; issuance under Revenue Bond Law of 1941

Sec. 16. If the board by resolution determines that a bonded indebtedness to pay for the acquisition or construction of any works for any purposes of the agency or for refunding any outstanding bonds should be incurred and can be repaid and liquidated as to both principal and interest from revenues designated by the board, the agency is authorized and shall have the power to define such works as an “enterprise” and to issue revenue bonds all in the manner and as provided in the Revenue Bond Law of 1941 as amended, and for such purpose the agency shall be considered a “local agency,” as defined by Section 54307 of the Government Code; provided, however, that notwithstanding the provisions of Section 54310 of the Government Code, the board shall have the power, subject to the limitations of Section 4.1 hereof, to borrow money and issue revenue bonds for, and to define “enterprise” to include systems, plants, works or undertakings for the generation, production, transmission and sale of hydroelectric energy as authorized in this act; and provided, further, that notwithstanding the provisions of Section 54400 of the Government Code, the board may determine and provide, in any resolution for the issuance of revenue bonds, for maturity dates of the revenue bonds not exceeding 50 years from their date of issuance.

(Stats.1959, c. 788, p. 2794, § 16. Amended by Stats.1961, c. 33, p. 940, § 1, eff. March 24, 1961.)

§ 84-17. Revenue bonds as legal investments

Sec. 17. All revenue bonds issued by the agency may be certified as legal investments pursuant to the Districts Securities Law (Chapter 1 (commencing with Section 20000) of Division 10 of the Water Code), in the manner and to the extent provided in Sections 54433 and 54434 of the Government Code; provided, however, that Sections 20003 and 20004 of the Water Code shall not be applicable to the agency.

(Stats.1959, c. 788, p. 2794, § 17. Amended by Stats. 1971, c. 214, p. 326, § 203.)

§84-18. Improvement; conformity to report, plans and specifications; additional bonds; defeat of bond proposal; waiting period

Sec. 18. Any improvement for which bonds are voted under the provisions of this act, shall be made in conformity with the report, plans, specifications and maps theretofore adopted unless the doing of any of such work described in said report shall be prohibited by law, or be rendered contrary to the best interest of the agency by some change of conditions in relation thereto, in which event the board may order necessary changes made in such proposed work of improvement, and may cause any plans and specifications to be made and adopted therefore.

Whenever bonds have been authorized and the proceeds of the sale thereof have been expended as authorized in this act, and the board shall by resolution determine that additional bonds shall be issued for carrying out any of the purposes of this act, the board may again proceed as provided in this act, and submit to the qualified voters the question of issuing additional bonds in the same manner and with the like procedures as provided in this act, and the above provisions of this act for the issuing and sale of such bonds, and for the expenditure of the proceeds thereof; shall be deemed to apply to such issue of additional bonds.

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

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

(Stats.1959, c. 788, p. 2795, § 18.)

§ 84-19. Surplus moneys; disposition; use

Sec. 19. After all of the revenue bonds shall have been fully paid and discharged, or provision for their payment and discharge irrevocably made, any surplus moneys in the construction fund shall, subject to the limitations and restrictions in any indenture providing for the issuance of the revenue bonds, become and be the property of the agency, and be used by the agency for any lawful purpose.

(Stats.1959, c. 788, p. 2795, § 19.)

§ 84-20. Maintenance and operation costs; apportionments from revenue; use of surplus

Sec. 20. If the interest and principal of the revenue bonds and all charges to protect or secure them are paid when due, an amount for the necessary and reasonable maintenance and operation costs of the enterprise, which costs include the reasonable expenses of management, repair and other expenses necessary to maintain and preserve the enterprise in good repair and working order, may be apportioned from the revenues, and

subject to any limiting covenants in the resolution providing for the issuance of bonds, the remaining surplus may be used for any lawful purpose of the agency, which without limiting the generality of the foregoing shall include the right and authority to expend any or all of such surplus as contributions in aid of necessary extensions of water storage and distribution facilities of the agency and the purchase or obtaining of additional water supplies.
(Stats.1959, c. 788, p. 2795, § 20.)

§ 84-21. Action to test validity of bonds or contract

Sec. 21. An action to determine the validity of bonds or a contract may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In any such action all findings of fact or conclusions of the board upon all matters shall be conclusive unless the action was instituted within six months after the finding or conclusion was made.
(Stats.1959, c. 788, p. 2796, § 21. Amended by Stats.1961, c. 1491, p. 3337, § 1.)

Cross References

Pleading see Code of Civil Procedure § 420 et seq.

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

Summons, service by publication, see Code of Civil Procedure § 415.50

§ 84-22. Effect upon municipalities, districts or other agencies

Sec. 22. Neither the establishment of the agency nor any provision of this act shall affect, restrict nor supersede the existence, property, right, or power of any municipality, public district, or public agency now or hereafter established in or partially within the limits of the agency for the purpose of flood control, reclamation, conservation, storage, distribution, sale, use, or development of water. The Legislature, because of conditions special to the county, hereby expressly declares its intent to permit within the limits of the Yuba County Water Agency, the existence of more than one district, municipality or combination thereof, having similar powers over similar territory in regard to flood control, reclamation and water conservation, storage, distribution, sale, use or development.
(Stats.1959, c. 788, p. 2796, § 22.)

§ 84-23. Vested rights

Sec. 23. Neither the formation of the agency nor this act shall impair the vested right of any person, association, corporation, municipality or district in or to any water or the use thereof.
(Stats.1959, c. 788, p. 2797, § 23.)

§ 84-24. Action to test validity of existence of agency

Sec. 24. The agency, in order to determine the legality of its existence, may institute a proceeding therefor in the Superior Court of this State, in and for the County of Yuba, by filing with the clerk of said county a complaint setting forth the name of the agency, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal

agency formed under this act. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in a newspaper of general circulation published in the county. The State of California shall be a defendant in such action, and consent therefor is given. Service of summons therein shall be made on the Attorney General. The Attorney General shall appear in such action on behalf of the State in the same manner as with appearances in civil actions. Within thirty (30) days after proof of publication of said summons the State, any property owner or resident in said agency, or any person interested may appear as a defendant in said action by serving and filing an answer to said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the agency and shall be served upon the district attorney before being filed in such proceeding. Such proceeding is hereby declared to be a proceeding in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever, including the agency and the State of California.

(Stats.1959, c. 788, p. 2797, § 24.)

Cross References

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

Summons, service by publication, see Code of Civil Procedure § 415.50

§ 84-25. Dissolution

Sec. 25. The agency may be dissolved in the manner provided for the dissolution of districts by Chapter 4 (commencing at Section 58950) of Division 1 of Title 6 of the Government Code, and the agency shall be considered a district within the meaning of all of the provisions of said chapter; provided, however, that if within 90 days after the effective date of this act, a petition is filed with the Board of Supervisors of Yuba County, the agency may be dissolved in the following manner. Upon the filing of the petition with the board signed by qualified electors of Yuba County equal in number to 10 percent of all the votes cast in the county for all candidates for Governor at the last preceding general election at which a Governor was elected, the board shall submit the question of dissolution of the agency to the agency electors. The question of dissolution shall be submitted at a special election held for that purpose not later than the ninetieth day after filing of the petition with the secretary of the board.

If a majority of the votes favor dissolution, the board shall by resolution dissolve the agency. The board shall file a certified copy of the resolution with the Secretary of State and for record in the office of the county recorder. Thereupon the agency is dissolved for all purposes.

(Stats.1959, c. 788, p. 2797, § 25.)

§ 84-26. Legislative findings and declaration

Sec. 26. The Legislature hereby finds that water problems in the County of Yuba require countywide water conservation, flood control and development of water resources; that all land within the county will be benefited thereby; that the solution of these problems lies within and is peculiar to the area to be included in the Yuba County Water Agency; that the county for many years has made investigations and engineering surveys of the county's water resources by private, public and United States engineers; that county water districts,

municipalities, irrigation districts and reclamation districts now exist within portions of the county, have acquired property and works, developed a limited water supply, and have incurred indebtedness, but have been and are unable alone to economically develop an adequate water supply and control the floods of said county, and for such reason it is necessary to have a political entity at least coextensive with the geographical limits of the entire county. It is therefore hereby declared that a general law cannot be made applicable to said county, and that the enactment of this special law is necessary for the conservation, development, control and use of said water for the public good and for the protection of life and property therein.

(Stats.1959, c. 788, p. 2798, § 26.)

§ 84-27. Partial invalidity

Sec. 27. If any provision of this act is declared unconstitutional or invalid, for any reason, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

(Stat.1959, c. 788, p. 2798, § 27.)

§ 84-28. Short title

Sec. 28. This act may be designated and referred to as "The Yuba County Water Agency Act," and any reference thereto by such designation shall be sufficient for all purposes.

(Stats.1959, c. 788, p. 2798, § 28.)