Attachment 2: Eligible Applicant Documentation

Mojave Water Agency Integrated Regional Water Management Plan
Proposition 84 Round 2 Planning Grant Application

Local Agency Information

This written statement answers the questions for Local Agencies contained on page 15 of the IRWM Grant Program PSP for Round 2 Planning Grants.

Is the applicant a local agency as defined in Appendix B of the Guidelines? Please explain.
Yes, the applicant for the Mojave Integrated Regional Water Management Plan (Mojave IRWMP) is Mojave Water Agency (MWA). MWA is a Special District, and therefore Local Agency as defined in Appendix B of the Guidelines.

What is the statutory or other legal authority under which the applicant was formed and is authorized to operate?
MWA was authorized by an act of the California State Legislature in 1959 (Chapter 97 of Appendices to the California Water Code ["MWA Law"]), and activated by voters in 1960. A copy of the MWA Law is enclosed.

Does the applicant have legal authority to enter into a grant agreement with the State of California?
Yes, the MWA has the legal authority to enter into a grant agreement with the State of California. MWA has previously entered into grant agreements with the State of California, to receive Proposition 50 and 84 implementation funding. Furthermore, the MWA Law prescribes the powers and duties of the MWA; and Subsection (11) of Section 15 (b) of the MWA Law empowers MWA to "…do any and every act necessary so that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants of the agency …"

Describe any legal agreements among partner agencies and/or organizations that ensure performance of the proposal and tracking of funds.
MWA is the applicant and the Regional Water Management Group (RWMG) for the Mojave IRWM Region, as approved by the Department of Water Resources in its Region Acceptance Process (RAP) decision, September 2009. At this time, MWA has not entered into any legal agreements with other agencies for the purposes of grant administration. As the RWMG for the Mojave IRWM region, MWA will be the sole entity responsible for grant administration under this program.

For an interregional proposal, please include a short statement regarding the determination of the applicant as the submitting entity for multiple IRWM regions.
Not applicable because this is not an interregional proposal.

Stakeholder Letters of Support

Letters from local stakeholders supporting an update to the IRWMP update, and supporting this grant application, are included as part of this attachment in a separate file (Att2_PG2_Mojave_EligDoc_2of2.pdf).

Effective: [See Text Amendments]

West's Annotated California Codes Currentness
Water Code Appendix (Refs & Annos)
➡ Chapter 97. Mojave Water Agency Law (Refs & Annos)

§ 97-1. Creation; name; territory

Section 1. There is hereby created a district to be known and designated as the "Mojave Water Agency." The territory of the agency shall be the following area:

Beginning at a point on the Westerly boundary of the County of San Bernardino, said point also being on the South line of Section 30, T4N, R7W, San Bernardino Base and Meridian;

Thence Northerly along said Westerly boundary of said County of San Bernardino following all its various courses to its intersection with the North line of T27S, R40E, Mt. Diablo Base and Meridian, said point of intersection also being the Northwest corner of Section 1, T27S, R40E, MDB & M;

Thence Easterly along the North line of Section 1, T27S, R40E, MDB & M, to the Northeast corner of said Section 1;

Thence Northerly along the West line of Section 6, T27S, R41E, MDB & M, to the Northwest corner of said Section 6;

Thence Easterly along the North Township line of T27S, R41E, MDB & M, to the Northeast corner of said Township;

Thence Southerly along the East line of Section 1 and the East line of Section 12 to the Southeast corner of Section 12, T27S, R41E, MDB & M;

Thence Easterly along the North line of Section 18, T27S, R42E, to the Northeast corner of said Section 18;

Thence Southerly along the East line of said Section 18, to the Southeast corner of said Section 18;

Thence Easterly along the North line of Section 20, T27S, R42E, MDB & M, to the Northeast corner of said Section 20;

Thence Southerly along the East line of said Section 20, MDB & M, to the Southeast corner of said Section 20;

Thence Easterly along the North line of Section 28, T27S, R42E, MDB & M, to the Northeast corner of said Section 28;

Thence Southerly along the East line of said Section 28, to the Southeast corner of said Section 28;

Thence Easterly along the North line of Section 34, T27S, R42E, MDB & M, to the Northeast corner of said Section 34;

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Thence Southerly along the East line of said Section 28, to the Southeast corner of said Section 34;

Thence Easterly along the North line of Section 2 and Section 1, T28S, R42E, MDB & M, to the Northeast corner of said Section 1;

Thence Southerly along the East line of T28S, R42E, MDB & M, to the Southeast corner of Section 25 of said T28S, R42E;

Thence Westerly along the South line of said Section 25 to the Southwest corner of said Section 25;

Thence Southerly along the East line of Section 35, T28S, R42E, MDB & M, to the Southeast corner of said Section 35;

Thence Westerly along the South line of said Section 35, to the Northeast corner of Section 2, T29S, R42E, MDB & M;

Thence Southerly along the East line of Sections 2, 11, 14, 23, and 26, T29S, R42E, MDB & M, to the Southeast corner of said Section 26;

Thence Northerly along the West line of Section 19, T29S, R44E, MDB & M, to the continuing Easterly along the North line of Section 31, 32, and 33, T29S, R43E, MDB & M, to the Northeast corner of said Section 33;

Thence Northerly along the West line of Section 27, T29S, R43E, MDB & M, to the Northwest corner of said Section 27;

Thence Easterly along the North line of Sections 27, 26, and 25, T29S, R43E, MDB & M, to the Northeast corner of said Section 25;

Thence Northerly along the West line of Section 19, T29S, R44E, MDB & M, to the Northwest corner of said Section 19;

Thence Easterly along the North line of Sections 19, 20, and 21, T29S, R44E, MDB & M, to the Northeast corner of said Section 21;

Thence Southerly along the East line of Sections 21, 28, and 33, T29S, R44E, MDB & M, to the Southeast corner of said Section 33;

Thence Southerly a distance of 6 miles, more or less, along the Naval Reservation Boundary to its intersection with the North line of Section 4, T31S, R44E, MDB & M, said point of intersection being 200 feet, more or less, Westerly of the Northeast corner of said Section 4;

Thence Easterly along the North Township line of Townships T31S, R44E, T31S, R45E, T31S, R46E, and T31S, R47E, MDB & M, to the Northeast corner of said Township T31S, R47E, said corner also being a point on the San Bernardino Meridian;

Thence Northerly along the San Bernardino Meridian to the Northwest corner of Section 18, T14N, R1E, San Bernardino Base and Meridian;

Thence Easterly along the North line of Sections 18, 17, 16, 15, 14, and 13, T14N, R1E, SBB & M, to the Northeast corner of said Section 13;

Thence Southerly along the East Township line of T14N, R1E, and T13N, R1E, SBB & M, to the Southeast corner

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of said T13N, R1E; T13N, R1E;

Thence Easterly along the North line of Section 6, T12N, R2E, SBB & M, to the Northeast corner of said Section 6;

Thence Southerly along the East line of Sections 6 and 7, T12N, R2E, SBB & M, to the Southeast corner of said Section 7;

Thence Easterly along the North line of Section 17, T12N, R2E, SBB & M, to the Northeast corner of said Section 17;

Thence Northerly along the West line of Section 9, T12N, R2E, SBB & M to the Northwest corner of said Section 9;

Thence Easterly along the North line of Sections 9 and 10, T12N, R2E, SBB & M, to the Northeast corner of said Section 10;

Thence Southerly along the East line of said Section 10 to the Southeast corner of said Section 10;

Thence Easterly along the North line of Sections 14 and 13, T12N, R2E, SBB & M, to the Northeast corner of said Section 13;

Thence Southerly along the East line of said Section 13, to the Southeast corner of said Section 13;

Thence Easterly along the North line of Sections 19, 20, 21, 22, 23, and 24, T12N, R3E and Sections 19, 20, 21, 22, 23, and 24, T12N, R4E, SBB & M, to the Northeast corner of said Section 24, T12N, R4E, SBB & M;

Thence Southerly along the range line between Range 4 East and Range 5 East, to the Southeast corner of T3N, R4E, SBB & M;

Thence Westerly along the South Township line of T3N, R4E and T3N, R3E, SBB & M, to the Southwest corner of said T3N, R3E, said Southwest corner also being a point on the Northerly boundary of the San Bernardino National Forest;

Thence Northerly and Westerly along said Northerly boundary of said San Bernardino National Forest following all its various courses to the Southeast corner of Section 11, T3N, R1E, SBB & M;

Thence Westerly along the South line of Sections 11, 10, 9, 8, and 7, T3N, R1E, SBB & M, and continuing Westerly along line of Sections 12 and 11, T3N, R1W, SBB & M, to the Southwest corner of said Section 11;

Thence Northerly along the West line of said Section 11 to the Northwest corner of said Section 11;

Thence Westerly along the South line of Sections 3, 4, 5, and 6, T3N, R1W, SBB & M, and continuing Westerly along the South line of Sections 1, 2, 3, and 4, T3N, R2W, SBB & M, to the Southwest corner of said Section 4;

Thence Southerly along the East line of Section 8, T3N, R2W, SBB & M, to the Southeast corner of said Section 8;

Thence Westerly along the South line of Sections 8 and 7, T3N, R2W, SBB & M, and continuing Westerly along the South line of Sections 12, 11, 10, 9, 8, and 7, T3N, R3W, SBB & M, to the Southwest corner of said Section 7;

Thence Southerly along the East line of Section 13, T3N, R4W, SBB & M, to the Southeast corner of said Section 13;

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Thence Westerly along the South line of said Section 13, T3N, R4W, to the Southeast corner of the Southwest quarter (SW 1/4) of Section 13;

Thence Southerly along the half-section line of Section 24, T3N, R4W, SBB & M, to the Southeast corner of the Southwest quarter (SW 1/4) of said Section 24;

Thence Westerly along the South line of said Section 24, to the Southwest corner of said Section 24;

Thence Southerly along the East line of Section 26, T3N, R4W, SBB & M, to the Southeast corner of said Section 26;

Thence Westerly along the South line of Sections 26, 27, 28, 29, and 30, T3N, R4W, SBB & M, and continuing Westerly along the South line of Sections 25, 26, and 27, T3N, R5W, SBB & M, to the Southwest corner of said Section 27;

Thence Northerly along the West line of said Section 27, to the Northwest corner of the Southwest quarter (SW 1/4) of said Section 27;

Thence Westerly along the half-section line of Section 28, T3N, R5W, SBB & M, to the Southwest corner of the Northwest quarter (NW 1/4) of said Section 28;

Thence Northerly along the West line of said Section 28, to the Northwest corner of said Section 28;

Thence Westerly along the South line of Section 20, T3N, R5W, SBB & M, to the Southwest corner of the Southeast quarter (SE 1/4) of said Section 20;

Thence Northerly along the half-section line of said Section 20, to the Northwest corner of the Northeast quarter (NE 1/4) of said Section 20;

Thence Westerly along the South line of Section 17, T3N, R5W, SBB & M, to the Southwest corner of said Section 17;

Thence Northerly along the West line of said Section 17, to the Northwest corner of said Section 17;

Thence Westerly along the South line of Section 7, T3N, R5W, SBB & M, to the Southwest corner of said Section 7;

Thence Northerly along the West line of said Section 7, to the Northwest corner of said Section 7;

Thence Westerly along the South line of Sections 1 and 2, T3N, R6W, SBB & M, to the Southwest corner of said Section 2;

Thence Northerly along the West line of said Section 2 to the Northwest corner of said Section 2;

Thence Westerly along the South line of Sections 34, 33, 32, and 31, T4N, R6W, SBB & M, and continuing Westerly along the South line of Sections 36, 35, 34, and 33, T4N, R7W, SBB & M, to the Southwest corner of said Section 33;

Thence Northerly along the West line of said Section 33, to the Northwest corner of the Southwest quarter (SW 1/4) of said Section 33;

Thence Westerly along the half-section line of Section 32, T4N, R7W, SBB & M, to the Southwest corner of the

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Northwest quarter (NW 1/4) of said Section 32;

Thence Northerly along the West line of said Section 32 to the Northwest corner of said Section 32;

Thence Westerly along the South line of Section 30, T4N, R7W, SBB & M, to its intersection with the Westerly boundary of the County of San Bernardino, said point of intersection being the point of beginning.

Effective: [See Text Amendments]

§ 97-1.5. Purpose of agency

Sec. 1.5. Within the limits of its power and authority set forth in this act, the purpose of the agency shall be to do any and every act necessary to be done so that sufficient water may be available for any present or future beneficial use of the lands and inhabitants of the agency, including, but not limited to, the construction, maintenance, alteration, purchase, and operation of any and all works or improvements within the agency necessary or proper to carry out any object or purpose of this act and the gathering of data for, and the development and implementation of, after consultation and coordination with all public and private water entities who are in any way affected, management and master plans to mitigate the cumulative overdraft of groundwater basins, to monitor the condition of the groundwater basins, to pursue all necessary water conservation measures, and to negotiate for additional water supplies from all state, federal, and other sources.

Effective: [See Text Amendments]

§ 97-2. Definitions

Sec. 2. For the purposes of this act, the following terms have the following meanings unless otherwise indicated by their context:

(a) "Agency" means the Mojave Water Agency.

(b) "Agency general election" or "general agency election" means general district election as provided in the Uniform District Election Law.

(c) "Board" means the board of directors of the agency.

(d) "County" means the County of San Bernardino.

(e) "District" means any municipality, county water district, reclamation district, irrigation district, water replenishment district, water conservation district, flood control district or other district or political subdivision of the state empowered by law to appropriate and to deliver water to water users.

(f) "Elector" means any elector of the county qualified under the laws of the State of California to vote in the county at general elections.

(g) "Groundwater" means water beneath the surface of the ground and within the zone of saturation, below the water table, whether or not flowing through known and definite channels.

(h) "Operate" includes use, maintenance, and repair.

(i) "President" means the president of the board of directors.

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(j) "Produce" means to pump or divert water.

(k) "Producer" means a person or entity that produces water.

(*l*) "Secretary" means the secretary of the board of directors.

(m) "State of California" includes the State of California and all bureaus, commissions, divisions, departments, boards, agencies and officers of the executive branch of the state, and all committees of the Legislature of the State of California.

(n) "United States" means and includes the United States of America and all bureaus, commissions, divisions, departments, boards, agencies and officers of the executive branch thereof, and all committees of the Congress of the United States of America.

(o) "Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the areas designated by the agency.

(p) "Water year" means October 1 of one calendar year to September 30 of the following calendar year.

(q) "Work" or "works" includes, but is not limited to, dams and dam sites, reservoirs and reservoir sites, sinking basins, groundwater replenishment facilities, watershed improvement facilities, ditches, laterals, flumes, pipelines, conduits, pumps, pumping plants, filters, wells, and, without limitation, all other facilities useful in the control, conservation, reclamation, diversion and transmission of water, and all land, property, franchises, easements, rights-of-way, and privileges necessary or useful to operate or maintain any of the foregoing.

Effective: [See Text Amendments]

§ 97-3. Body politic and corporate; powers

Sec. 3. The agency is a body politic and corporate and has perpetual succession and may exercise the powers enumerated in this act, those necessarily implied therefrom and such other powers as the law may provide.

Effective: [See Text Amendments]

§ 97-3.1. Repealed by Stats.1993, c. 1171 (A.B.311), § 2

Effective: [See Text Amendments]

§ 97-3.2. Divisions; adjustment of boundaries

Sec. 3.2. The board of directors shall, by resolution, adjust the boundaries of any divisions pursuant to Chapter 8 (commencing with Section 22000) of Division 21 of the Elections Code.

Effective: [See Text Amendments]

§ 97-3.4. Hearing; report; recommendations as to need of agency

Sec. 3.4. Within 90 days after the effective date of this act, the Department of Water Resources shall hold a hearing within the area of the agency created by this act, after such public notice as deemed necessary by the

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department. At such hearing any interested person may appear and present testimony or evidence as to the necessity or desirability of the agency. At the conclusion of such hearing, the department shall file a report thereon with the board of supervisors of the County of San Bernardino, including in said report its recommendations as to the need for the functioning of the agency.

Effective: [See Text Amendments]

§ 97-3.5. Special election; petition; call; notice; conduct; ballots; favorable vote; appointment of directors

Sec. 3.5. Before the agency may begin to transact business and exercise its powers, a petition requesting that the agency transact business and exercise its powers shall be presented to the Board of Supervisors of the County of San Bernardino, signed by not less than twenty-five (25) qualified electors residing within the territory of the agency, and requesting that the Board of Supervisors of the County of San Bernardino call a special election for the purpose of submitting to the voters within the territory of the agency the proposition of whether or not the agency should begin to function and exercise its powers.

The Board of Supervisors of the County of San Bernardino, within ten (10) days after the filing of said petition for the calling of said election, and if it has received the report from the Department of Water Resources pursuant to Section 3.4, shall call and give notice of an election to be held in the territory of the agency for the purpose of determining whether or not it shall begin to function and exercise its powers and for the selection of persons who shall serve as directors of said agency if said agency is formed.

The election shall be held not less than seventy-five (75) days, nor more than ninety (90) days from the date of the presentation of said petition to the board of supervisors. Said election shall be conducted and the first elective directors shall be nominated and elected pursuant to the provisions of Part 2 (commencing at Section 9480), Division 11 of the Elections Code. Said directors shall be registered to vote within the agency.

Notice of the election shall be published in a newspaper of general circulation circulated within the territory of the agency. Such notice shall be published at least twice, with an interval of at least six (6) days between the first and last publication. Publication shall be complete at least six (6) days before the date of the election.

The notice of the election shall contain:

(1) The date of the election;

(2) The name of the agency;

(3) The proposition to be voted on, as follows: "Shall the Mojave Water Agency begin to function and exercise its powers in accordance with the provisions of the Mojave Water Agency Act?"

(4) A statement that the first elective directors will be elected at that election; and said directors will take office if a majority of the voters vote that the agency shall begin to function and exercise its powers;

(5) A statement that one (1) director shall be appointed by the Board of Supervisors of the County of San Bernardino, that one (1) director shall be appointed by the Board of Directors of the Mojave Desert Soil Conservation District, and that one (1) director shall be appointed by all the municipalities and districts within the agency who are authorized by law to sell and distribute water, each such municipality or district being entitled to one (1) vote in the selection of such director.

There shall be printed on the ballot, together with the names of the candidates for director, the following question:

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"Shall the Mojave Water Agency begin to function and exercise its powers in accordance with the provisions of the Mojave Water Agency Act?" Following which question, shall be the words "Yes" and "No" on separate lines, with a voting square at the right of each, in which the voter shall indicate by stamping a cross (k) his vote for or against the proposition.

If a majority of the voters voting on the proposition vote in its favor, the board of supervisors shall canvass the returns for directors and those eight persons receiving the highest number of votes shall be declared elected. The agency shall begin to function and shall exercise its powers, and the Board of Supervisors of the County of San Bernardino, within fifteen (15) days after said election, shall by resolution enter on its minutes a declaration that the agency has begun to function and exercise its powers, giving the name of the agency, the purposes for which it is formed, and describing its boundaries.

Within said fifteen (15) days after said election, three (3) directors shall be appointed, as follows:

(a) One (1) director shall be appointed by the Board of Supervisors of San Bernardino County from among members of the San Bernardino County Flood Control Advisory Committee, Zone 4 or Zone 6.

(b) One (1) director shall be appointed by the governing body of the Mojave-Desert Soil Conservation District.

(c) One (1) director shall be appointed by the governing bodies of the several municipalities and districts lying in whole or in part within the agency which are authorized by law to sell and distribute water, each of which shall have one vote in the appointment of said director, and the person receiving the greatest number of votes shall be deemed appointed.

The County Clerk of San Bernardino County, immediately after the entering of the resolution in the minutes of the board as above provided, shall cause to be filed in the Office of the Recorder of San Bernardino County and with the Secretary of State, a certified copy of said resolution. Thereupon, the organization of the agency shall be complete.

No informality in any proceedings, including informality in the conduct of any election not substantially affecting adversely the legal rights of any person, shall invalidate the organization of the agency.

The validity of the organization of the agency shall not be contested in any proceeding commenced more than ninety (90) days after the date that the organization of the agency is complete.

If less than a majority of the votes cast at the election is in favor of the proposition that the agency should begin to function and exercise its powers, the board of supervisors shall declare the proceedings terminated and no petition requesting that the agency begin to function and exercise its powers shall be circulated and presented to the Board of Supervisors of San Bernardino County within one year from the date of said election.

Effective: [See Text Amendments]

§ 97-4. Board of directors; composition; term of office; vacancies; nomination and election

Sec. 4. The board of directors shall consist of seven directors, all of whom shall be registered to vote within the agency. The directors elected under this act shall hold office until the election and qualifications of their successors.

The term of office of each director shall be four years and as provided in the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code).

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All vacancies occurring in the office of director shall be filled by appointment by a majority of the remaining directors and as provided in Section 1780 of the Government Code. Notwithstanding any other provision of law, an appointment to fill a vacancy in the office of director shall be for the unexpired term of the office in which the vacancy occurs. The person so chosen to fill a vacancy shall be a resident of the division for which the vacancy is being filled.

Successive elective members of the board of directors shall be elected by the voters of the agency as provided in this act.

The seven members of the board of directors, designated and referred to as members numbered 1 through 7, respectively, shall be elected, one from each of the seven divisions of the agency provided for in Section 3.1 and as relocated pursuant to Section 32.5. Each director shall be voted on only by those voters living within the division of which the director is a resident in accordance with this act pertaining to the qualifications of directors.

In case any two or more persons receive an equal number of votes, the board shall forthwith summon the candidates who have received the equal number of votes to appear before it, at a time and place to be designated by the board, and the board shall, at the time and place, determine by lot which person shall be deemed elected.

The succeeding elective directors shall be nominated and elected at the agency general election which shall be held on the first Tuesday after the first Monday in November in each odd-numbered year. The election shall be conducted in accordance with the provisions of the Uniform District Election Law, and elective directors shall take office at noon on the last regular meeting date of the board in November following the agency general election. City officers, whether elected or appointed, may be elected to, and serve contemporaneously as a member of, the board of directors.

At the time each director is elected, he or she shall be a resident of both the agency and the division he or she represents. A director who removes his or her residence from the agency shall no longer be qualified to act as a director, and the board shall fill the vacancy so created as provided in this section. A director is not disqualified from serving for the remainder of his or her term if, during that term, the director's residence is removed from one division to another.

Effective: [See Text Amendments]

§ 97-5. Repealed by Stats.1965, c. 2019, p. 4582, § 183, operative Jan. 1, 1967

Effective: [See Text Amendments]

§ 97-6. Qualification of electors

Sec. 6. No person shall vote at any agency election held under the provisions of this act who is not a voter within the meaning of the Elections Code, residing in the agency.

Effective: [See Text Amendments]

§ 97-7. Initiative and referendum; election call and canvass; powers of governing body

Sec. 7. The board of directors of the agency shall call and canvass all elections involving matters of initiative and referendum and shall call all other elections which it is authorized to canvass.

The governing body calling or conducting any election under the provisions of this act shall fix the compensation

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to be paid the officers of the election and shall designate the precincts and polling places for each division of the agency and shall appoint the officers of such election, who shall consist of one inspector, one judge, and two clerks, unless in case of consolidated elections, other officers of election are required by law. The voting precincts for any such election may be established and the boundaries thereof fixed and described by such governing body, or such voting precincts may consist of either the regular election precincts or portions thereof within the agency established for holding state or county elections, or a consolidation of any or all of such regular election precincts or portions thereof last established. If any such agency election is consolidated with any state or county election, then the voting precincts, polling places, and election officers for the agency election shall be the same as those established for such state or county election.

This section shall not apply to agency general elections.

Effective: [See Text Amendments]

§ 97-8. Recall of incumbents

Sec. 8. Every incumbent of an elective office, whether elected by popular vote for a full term, or chosen by the board of directors to fill a vacancy, is subject to recall by the voters of the agency in accordance with the recall provisions of the Uniform District Election Law.

Effective: [See Text Amendments]

§ 97-9. Board of directors as governing body; meetings; officers; quorum

Sec. 9. The board of directors shall be the governing body of the agency. Each board of directors shall hold its first meeting on the last regularly scheduled meeting date in November next following the general agency election, and at the meeting elect from its membership a president, vice president, secretary, and treasurer, and provide for the time and place of holding its meetings and the manner in which its special meetings may be called. The board of directors may consolidate the office of secretary and treasurer. All legislative sessions of the board of directors, whether regular or special, shall be open to the public. A majority of the board of directors shall constitute a quorum for the transaction of business.

Effective: [See Text Amendments]

§ 97-10. Proceedings of board; compensation of directors; expenses

Sec. 10. The board of directors shall act only by ordinance, resolution, or motion. On all ordinances the roll shall be called and the ayes and noes recorded in the journal of the proceedings of the board of directors. Resolutions and orders may be adopted by voice vote, but on demand of any member the roll shall be called. No ordinance, motion, or resolution shall be passed or become effective without the affirmative vote of a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be: "Be it ordained by the Board of Directors of the Mojave Water Agency as follows:". Each director shall receive compensation in an amount not to exceed fifty dollars ($50) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his duties required or authorized by the board.

Effective: [See Text Amendments]

§ 97-11. Attorney, general manager and auditor; duties; assistants and employees

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Sec. 11. The board of directors shall at its first meeting, or as soon thereafter as practicable, appoint by a majority vote an attorney, general manager and auditor, define their duties, and fix their compensation, and each shall serve at the pleasure of the board, and may employ such additional assistants and employees as they may deem necessary to efficiently maintain and operate the agency.

Effective: [See Text Amendments]

§ 97-12. Administration of oaths and affirmations

Sec. 12. Each member of the board of directors or the secretary may administer oaths and affirmations in connection with the taking of testimony at any hearing, investigation or other matter pending before the board.

Effective: [See Text Amendments]

§ 97-13. Powers of agency

Sec. 13. The agency has the following powers:

(1) To sue and be sued in the name of the agency in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(2) To adopt a seal and alter it at pleasure.

(3) To acquire by grant, purchase, lease, gift, devise, contract, condemnation, construction or otherwise, and to hold, use, sell, let and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges, and to construct, maintain, alter and operate any and all works or improvements, within the agency, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to plan, complete, extend, enlarge, add to, alter, remove, repair or otherwise improve any works, or improvements, or property acquired by it as authorized by this act. The agency shall not interfere with or exercise any control over water rights, property or facilities owned, held or used by a district unless by consent of such district and upon such terms as are mutually agreed upon between the agency and the district.

(4) To enter into contracts, make leases, borrow money, incur indebtedness and give evidence thereof, and employ labor.

(5) To do all acts and things reasonably implied from, and necessary and appropriate to the full exercise of, all the powers granted by this act.

(6) To provide by ordinance of its board of directors for the pensioning of officers or employees and the creation of a special fund for the purpose of paying such pensions, and the accumulation of contributions to said fund from the revenues of the agency, the wages of officers or employees, voluntary contributions, gifts, donations or any source of revenue not inconsistent with the general powers of the board, and to contract with the state, any insurance corporation, or any other insurance carrier for the maintenance of a service covering the pension of such officers, or employees, and to provide in such ordinance for the terms and conditions under which such pensions shall be awarded, and for the time and extent of service of officers or employees before such pensions shall be available to them.

(7) To issue bonds, borrow money, and incur indebtedness as authorized by law or this act.

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(8) The agency may refund or retire any indebtedness or lien that may exist against the property within the agency by the issuance of general obligation bonds.

Effective: [See Text Amendments]

§ 97-14. Eminent domain

Sec. 14. The agency has the power of eminent domain to acquire any property necessary or convenient for carrying out the powers and purposes of the agency except that the agency shall not have power to acquire by condemnation publicly owned water rights or property held or used for the development, storage or distribution of water for public use; provided, however, that the agency in exercising such power shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal and, where necessary, relocation of any structures, railways, mains, pipes, conduits, wires, cables and poles, of any public utility which require removal only, or removal and reinstallation in a new location. In no event shall the agency exercise the power of eminent domain with respect to property situated outside the boundaries of the agency.

Effective: [See Text Amendments]

§ 97-15. Availability of water; means to secure; cooperation with public and private agencies; electric power

Sec. 15. (a) The agency may do any and every act necessary to be done so that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants of the agency, including, without limiting the generality of the foregoing, irrigation, domestic, fire protection, municipal, commercial, industrial, and recreational uses.

(b) Without limiting the generality of the authority given under subdivision (a) or under any other section of this act, the agency has the following additional powers:

(1) To make surveys and investigations of the water supply and resources of the agency, to gather data on water use, to plan water projects, and to publish and distribute reports thereof.

(2) To develop, protect, conserve, and reclaim water, reduce the waste of water, control and prevent the intrusion of salinity in water, and replenish underground water supplies within the agency, including the collection, treatment, and disposal of sewage, waste, and storm water, in those areas within the agency where no reclamation authority currently exists and to fix and collect rates and charges therefor.

(3) To store, regulate, control, transport, divert, and distribute water for use within the agency by any reasonable means, including, without limitation, the construction, maintenance, alteration, purchase, and operation of works and improvements and the spreading and sinking of water into underground storage basins.

(4) To appropriate water and acquire and protect water rights for any beneficial purpose.

(5) To commence, maintain, appear before, intervene in, defend and compromise, in the name of the agency, and to assume the costs of, any action, hearing or proceeding before any court of the United States or of the State of California, involving or affecting the ownership, use or supply of water, water rights or water service within or without the agency which is or may be used or useful for any purpose within the agency, or involving or affecting the interference or diminution of the natural flow of any river or stream or subterranean water supply, which is or may be used or useful for any purpose within the agency.

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(6) To enter into any contract with any person, corporation, utility, district, public corporation, the United States, or the State of California, as the board determines to be proper or advisable or in the interest of the lands and inhabitants of the agency, to carry out or to execute any of the purposes of this act.

(7) To promote and coordinate existing and planned water service facilities in the agency with the operations of the California Water Plan and Aqueduct System.

(8) To join with one or more persons, corporations, utilities, districts or other public corporations, the United States, or the State of California, for the purpose of carrying out any of the powers granted by this act.

(9) To make application to the State of California, the Department of Water Resources, or any other appropriate department or agency of the State of California for the department's or agency's share of water made available by the State Water Resources Development System or any other supplemental water source.

(10) To construct, operate, and maintain works to develop hydroelectric energy as a means of assisting in financing the construction, operation, and maintenance of works for other beneficial uses and purposes, and to enter into contracts for the sale of that energy for a term not to exceed 50 years. The energy may be marketed only at wholesale rates to any public agency or private entity engaged in the sale or use of electric energy.

(11) To gather data for, and to develop and implement, after consultation and coordination with all public and private water entities who are in any way affected, management and master plans to mitigate the cumulative overdraft of groundwater basins, to monitor the condition of the groundwater basins, to pursue all necessary water conservation measures, and to negotiate for additional water supplies from all federal, state, and other sources.

Effective: [See Text Amendments]

§ 97-15.2. Grants; construction, operation, maintenance or improvement of groundwater management facilities

Sec. 15.2. The agency may apply for, and accept, grants to pay for the construction, operation, maintenance, or improvement of groundwater management facilities.

Effective: [See Text Amendments]

§ 97-15.3. Agency measures regarding wells or facilities used for extracting groundwater

Sec. 15.3. The agency, in addition to the other powers enumerated in this act, may undertake any necessary measures with regard to wells or facilities used for the extraction of groundwater, whether operating, inactive, or abandoned, in order to enhance the management of groundwater resources.

Effective: [See Text Amendments]

§ 97-15.4. Remediation plan; contents; responsibility and liability of agency

Sec. 15.4. (a) Unless the context requires otherwise, the following definitions govern the construction of this section:

(1) "Affected lands" means lands that are affected by groundwater pollution or pollutants in soils that threaten to cause groundwater pollution and are in a location where the agency has implemented or proposes to implement a

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remediation plan.

(2) "Oversight agency" means either the State Water Resources Control Board or the appropriate regional water quality control board. "Remediation plan" means a plan to improve the quality of groundwater underlying lands within the jurisdiction of the agency that has been directly and adversely affected by groundwater pollution.

(b) Notwithstanding any other provision of law, if the agency has submitted a remediation plan to an oversight agency, the oversight agency has approved that remediation plan, and the agency has implemented the remediation plan, in accordance with this section, the agency shall not be deemed, based on the actions taken to implement the remediation plan, to be the owner or operator of any affected lands, or any structure, improvement, waste management unit, or facility on those affected lands, and shall not be deemed, based on the actions taken to implement the remediation plan, to be responsible for any discharge, or the results of any discharge, of pollutants on or from those affected lands or any structure, improvement, waste management unit, or facility on those affected lands.

(c) Except as provided in subdivision (d), and Chapter 5.5 (commencing with Section 13370) of the Water Code, the responsibilities of the agency are limited to the following:

(1) Submitting a remediation plan to an oversight agency for approval in accordance with subdivision (d).

(2) Implementing a remediation plan that has been approved by the oversight agency.

(3) If required by a remediation plan approved by the oversight agency, maintaining any structure, waste management unit, improvement, or other facility constructed, improved, or placed on the affected lands.

(4) Periodically monitoring and reporting as required by the oversight agency.

(5)(A) Determining if the remediation plan implemented by the agency has been effective to provide a substantial improvement in groundwater quality affected by the discharge or potential discharge of pollutants on or from affected lands.

(B) If the agency determines that the remediation plan implemented by the agency is not effective, the agency shall promptly report that determination to the oversight agency. If the agency or the oversight agency determines that the remediation plan implemented by the agency is not effective, the agency shall submit a modified remediation plan to the oversight agency that includes a proposal to improve the plan to make it effective, or a proposal to cease remedial activities on the affected lands and return those lands, including the groundwater quality on those lands, to a condition that approximates the quality that existed prior to commencing remedial activities. The agency shall implement the modified remediation plan as approved by the oversight agency.

(6) Notwithstanding any other provision of law, except as provided in Chapter 5.5 (commencing with Section 13370) of the Water Code, if the agency implements or has implemented the approved remediation plan and any modifications to the plan approved by the oversight agency, the agency, with regard to any discharge of pollutants that is the subject of the plan, shall not be required to achieve water quality objectives pursuant to, or to comply with other requirements of, the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) or other laws that are administered by the State Water Resources Control Board or the regional water quality control boards, and shall not be subject to any enforcement actions pursuant to state law based on actions taken to implement the approved remediation plan, except for violations involving gross negligence, including reckless, willful, or wanton misconduct, or intentional misconduct by the agency.

(d) The remediation plan to be submitted by the agency to the oversight agency shall include all of the following:

(1) Identification of the affected lands that are the subject of the plan, including a legal description and the owner

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of record.

(2) Identification of the groundwater that is affected by discharges of pollutants on or from the affected lands.

(3) A description of the physical conditions of the affected lands that have had, or are having, an adverse effect on groundwater quality.

(4) A description of the practices, including system design and construction plans, and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse effects on groundwater quality and a schedule for implementing those practices.

(5) An analysis demonstrating that the implementation of the practices described in the plan have caused, or are expected to cause, a substantial improvement in groundwater quality for the identified groundwater.

(6) A description of monitoring or other assessment activities to be undertaken to evaluate the success of the implemented practices during and after implementation, including an assessment of baseline conditions.

(7) A budget and identified funding to pay for the implementation of the plan.

(8) Remediation goals and objectives.

(9) Contingency plans.

(10) A description of the agency's legal right to enter and conduct remedial activities.

(11) The signature of an authorized representative of the agency.

(12) Identification of the pollutants to be addressed by the plan.

(e) The oversight agency shall do all of the following:

(1) Comply with the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) in connection with the review of any remediation plan.

(2) Provide an opportunity for public review of, and comment with regard to, the remediation plan.

(3) Disapprove, approve, or modify and approve a remediation plan at a public meeting.

(f)(1) The oversight agency may approve the remediation plan if the oversight agency finds that there is substantial evidence in the record that the plan will substantially improve groundwater quality affected by discharges of pollutants on or from affected lands. The oversight agency may disapprove a remediation plan even if there is substantial evidence that the plan would improve the groundwater quality.

(2) The agency is not required to include in the remediation plan a plan to achieve water quality objectives, with regard to any discharge of pollutants that is the subject of the plan, to comply with other requirements of the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), except for Chapter 5.5 (commencing with Section 13370) of Division 7 of the Water Code, or to comply with any other law that is administered by the state board or the regional boards, with regard to that discharge of pollutants.

(3) The oversight agency may approve a modification of an approved remediation plan to permit additional time for completing the remediation project or to otherwise modify the plan, after an opportunity for public comment.

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(4) If the oversight agency determines that the agency is not implementing the approved remediation plan in substantial compliance with its terms, that oversight agency shall notify the agency of its determination, including the specific causes for that determination.

(5) If the oversight agency determines that the specific causes for the determination are not adequately addressed pursuant to paragraph (4), or if a compliance plan is not submitted to, and approved by, the oversight agency within 180 days from the date of the notification pursuant to paragraph (4), the oversight agency may determine that the agency is in violation of this section. If the agency is determined to be in violation of this section, the agency is not protected by the limitations on responsibility provided by this section for remediation of groundwater quality adversely affected by discharges of pollutants on or from affected lands and may be subject to any enforcement action authorized by law.

(g) This section has no effect on any of the following:

(1) The tort liability of the agency for personal injury or wrongful death.

(2) The liability of the agency based upon activities other than those undertaken in connection with the implementation of an approved remediation plan.

(3) The responsibilities of the owner of affected lands or other property that is the source of pollutants on affected lands or any other person responsible for activities that caused or permitted the discharge of pollutants.

(4) The liability of the agency for damages resulting from the agency's negligent implementation of the remediation plan.

Effective: [See Text Amendments]

§ 97-16. Pumping assessment; rates and charges; tax levies; purposes; applicable laws

Sec. 16. The agency may annually levy an assessment against pumping within the agency and shall fix and collect rates and charges for water sold by the agency which, together with the assessment against pumping, will be in an amount sufficient to pay not less than the variable cost under any contract entered into with the state, for the purchase of water, and to pay the reasonable share of the costs of the construction, maintenance, alteration, purchase, and operation of necessary works, and to pay the reasonable share of an annual amount which will amortize over such period of time as the board of directors shall determine the cost of construction or acquisition of necessary works, including costs of financing studies, the acquisition of options, permits, and other preliminary costs incurred or to be incurred prior to undertaking construction or acquisition of a project, as well as costs of issuing bonds, including the payment of interest, principal, and any premium thereon, secured by a pledge of the assessment against pumping or the rates and charges for water sold by the agency, or both, and any costs relating to any other authorized purpose of the agency. The agency shall annually, at the time county taxes are levied, levy an ad valorem tax on land only within the agency not to exceed 45 cents ($0.45) per one hundred dollars ($100) assessed valuation for the purpose of paying all other costs, expenses, and obligations of the agency under any such contract. If an ad valorem tax on land levied at a rate of 45 cents ($0.45) per one hundred dollars ($100) assessed valuation will not yield adequate revenue for such purposes, the agency shall, at the same time, levy an additional ad valorem tax on all taxable property, exclusive of personal property, within the agency for the additional revenue required for the purpose of paying all other costs, expenses, and obligations of the agency under any such contract. For the purpose of this section, the term "variable costs" means those costs paid by the agency which constitute operation, maintenance, power, and replacement costs incurred in an amount which is dependent upon and varies with the amount of project water delivered to the agency by the state.

To accomplish the administration of the agency, there shall be levied a tax not to exceed ten cents ($0.10) on each

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one hundred dollars ($100) of the assessed valuation of all taxable property in the agency exclusive of personal property. Taxes to pay the principal of, and interest on, bonded indebtedness shall be levied on all the property in the area subject to that taxation when duly authorized by a vote of the electors. These taxes shall be levied and collected with, and not separately from, taxes for county purposes. The revenue derived from these taxes shall be paid into the treasury of the county to the credit of the agency, and the board may control and order the expenditure thereof. The provisions of the laws of the State of California prescribing the priority, time, and manner of levying, assessing, equalizing, and collecting county property taxes, including the sale of property for delinquency and the redemption from such sale and the duties of the various county officers with respect thereto, are, so far as they are applicable and not in conflict with the specific provisions of this act, hereby adopted for the agency and made a part hereof. Agency and county officers shall be liable upon their several bonds for the faithful discharge of the duties imposed upon them by this act.

Effective: [See Text Amendments]

§ 97-17. Depository of funds; security; audits and accounts

Sec. 17. The board shall designate a depository or depositories to have the custody of the funds of the agency. All such depositories shall give security sufficient to secure the agency against possible loss and shall pay the warrants drawn by the treasurer for demands against the agency under such rules as the board may prescribe. The treasurer or other such person or persons as may be authorized by the board of directors shall draw checks or warrants to pay demands when such demands have been audited and approved in the manner prescribed by the board of directors.

The treasurer shall install and maintain a system of auditing and accounting that shall completely and at all times show the financial condition of the agency.

The treasurer shall make annual or earlier written reports to the board, as it shall determine, as to the receipts and disbursements and balances in the several accounts under his control. The report shall be signed by him and filed with the secretary.

Any bank may act as a depositary, paying agent, or fiscal agent for the holding or handling of agency funds, notwithstanding the fact that a member of the board of directors of the agency whose funds are on deposit in said bank is an officer, employee, or stockholder of such bank, or of a holding company that owns any of the stock of such bank.

Effective: [See Text Amendments]

§ 97-17.5. Issuance of negotiable promissory notes; limitation on indebtedness; maturity

Sec. 17.5. Notwithstanding the limitations contained in Section 16, the agency may issue negotiable promissory notes bearing interest at a rate not to exceed the maximum interest rate authorized by Section 53531 of the Government Code subject to the following:

(a) The notes are obligations payable out of available revenues, including taxes levied against all the taxable property (other than personal property) within the agency.

(b) The aggregate amount of notes outstanding, which have not been refunded or defeased, does not exceed five million dollars ($5,000,000).

(c) Any note issued does not mature later than five years from the date of issuance of the note.

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Effective: [See Text Amendments]

§ 97-18. Repealed by Stats.1967, c. 166, § 9

Effective: [See Text Amendments]

§ 97-19. Indebtedness; election; purpose of issuance of bonds

Sec. 19. Whenever the board of directors deems it necessary for the agency to incur a bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvement, works, or property specified in this act to be payable from ad valorem taxes on real property, the board shall, by resolution, so declare and call an election to be held in the agency for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the agency. The resolution shall state all of the following:

(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 amount of debt to be incurred.

(c) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years.

(d) The maximum rate of interest to be paid, which shall not exceed the interest rate as may be authorized by law at the time of issuance, including, but not limited to, Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, payable as set forth in the resolution calling the election authorizing the issuance of the bonds.

(e) The measure to be submitted to the voters.

(f) The date upon which an election shall be held for the purpose of authorizing the bonded indebtedness to be incurred.

(g) The designation of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector, and two clerks in each precinct. However, the board of directors may refer the designation of precincts, the location of polling places, and the names of the officers selected to conduct the election to the county registrar when the agency election is to be consolidated with another election or if the county registrar is to conduct the election for the agency.

Effective: [See Text Amendments]

§ 97-19.1. Time for election; applicability of Elections Code; notice returns; statement of results; irregularities; action to contest validity

Sec. 19.1. The board shall provide for holding the bond election on the day fixed in the resolution calling the election and in accordance with the provisions of the Elections Code, so far as they shall be applicable, except as otherwise provided in this act.

Notice of the holding of the bond election shall be given by publishing, pursuant to Section 6066 of the Government Code, the resolution calling the election in at least one newspaper published in the agency. The last publication shall be made not less than two weeks prior to the date of the proposed election. If there is no newspaper published in the agency, then the resolution shall be posted in three public places in the agency not less

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than two weeks prior to the date of the proposed election. No other notice of the election need be given.

If the bond election is to be held in an improvement district, notice of the holding of such election shall be given by publishing, pursuant to Section 6066 of the Government Code, the resolution calling the election prior to the date of the proposed election in at least one newspaper printed and published in the agency, and such resolution shall also be posted in three public places in the improvement district not less than two weeks prior to the date of the proposed election. No other notice of the election need be given.

The returns of the bond election shall be made, the votes canvassed by the board within seven days following the election, and the results thereof ascertained and declared in accordance with the provisions of the Elections Code, so far as they may be applicable, except as otherwise provided in this act.

The secretary, as soon as the result of the bond election is declared, shall enter in the records of the board a statement of such results.

No irregularities or informalities in conducting the bond election shall invalidate it, if the election has otherwise been fairly conducted.

Any action or proceeding in which the validity of any bonds or of the proceedings in relation thereto (including the formation of an improvement district for which bonds are authorized to be issued by the voters thereof at a bond election) is contested, questioned, or denied shall be commenced within three months from the date of the bond election; otherwise the bonds and all proceedings in relation thereto (including the formation of the improvement district) shall be held to be valid and in every respect legal and incontestable.

Effective: [See Text Amendments]

§ 97-19.2. Issuance of bonds; series; maturity; form; interest; call and redemption; denomination; proceeds; use

Sec. 19.2. If, from the bond election returns, it appears that more than two-thirds of the votes cast in the election were in favor of and assented to the incurring of the indebtedness, the board may, by resolution, at such time or times as it deems proper, issue bonds of the agency for all or any part of the amount of the indebtedness so authorized and may, from time to time, provide for the issuance of such amounts as the necessity thereof may appear, until the full amount of the bonds authorized has been issued.

The full amount of the authorized bonds may be divided into two or more series and different dates fixed for the bonds of each series. The maximum term which the bonds of any series may run before maturity shall not exceed 40 years from the date of the series.

The board shall, by resolution, prescribe the form of the bonds and fix the time when the whole or any part of the principal shall become due and payable. The payment of the first installment of principal may be deferred for a period of not more than five years from the date of the bonds or the date of the bonds of each series.

The bonds shall bear interest at a rate not to exceed the interest rate as may be authorized by law at the time of issuance, including, but not limited to, Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, payable as set forth in the resolution calling the election authorizing the issuance of the bonds.

The board may provide for the call and redemption of bonds prior to maturity at such times and prices and upon such other terms as it may specify. A bond shall not 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.

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The denomination of the bonds shall be stated in the resolution authorizing their issuance, but shall not be less than one hundred dollars ($100).

The principal of, and interest on, the bonds shall be payable in lawful money of the United States at the office of the treasurer of the agency or such other place as may be designated in the resolution authorizing the issuance of the bonds.

The bond shall be dated, numbered consecutively, signed by the president and treasurer of the agency, countersigned by the secretary, and the official seal of the agency shall be attached. All signatures and countersignatures may be printed, lithographed, or mechanically reproduced, except that one of the signatures or countersignatures to the bonds shall be manually affixed. Notwithstanding the foregoing, the board may determine that all of the required signatures and countersignatures shall be by facsimiles, provided that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the board or its authorized designee. All expenses incurred incident to the authorization, issuance, and sale of the bonds, including, but not limited to, the preparation, printing, and distribution of any official statement or other disclosure document, the obtaining of insurance or other credit support providing for the prompt payment of interest and principal, the printing of the bonds, and legal fees of independent bond counsel retained by the agency are legal charges against the funds of the agency and may be paid from the proceeds of sale of the bonds.

If the bond election proceedings have been limited to and have applied only to an improvement district, the bonds are bonds of the agency, shall be issued in the name of the agency, and shall be designated "Bonds of Mojave Water Agency for Improvement District No. ----." Each bond shall state that taxes levied for the payment thereof will be levied exclusively upon the taxable property, exclusive of personal property, in the improvement district.

Any bonds issued by the agency have the same force, value, and use as bonds issued by a city and are exempt from all taxation within the state.

The board of directors may sell the bonds at a negotiated sale or by competitive bidding. If the sale is by competitive bid, before selling the bonds, or any part thereof, the board shall give notice inviting sealed bids in the manner as it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the responsible bidder offering the lowest interest cost, as determined by the board. 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, it may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

The proceeds from the sale of bonds shall be paid into the treasury of the agency, placed to the credit of a special improvement fund, and expended only for the purpose for which the indebtedness was created. When that purpose has been accomplished, any money remaining in the special improvement fund may be transferred to the fund to be used for the payment of principal of and interest on the bonds.

Any money remaining in the special improvement fund from the sale of bonds of the agency after the purpose for which the indebtedness was created has been accomplished may also be used for any other Mojave Water Agency purpose. The money remaining from the sale of bonds of the agency for an improvement district therein may also be used for any purpose which will benefit the property in the improvement district.

The money may not be used for any other Mojave Water Agency purpose or improvement district purpose until two-thirds of the qualified voters of the agency or improvement district voting on the proposition at a special election called in the agency or improvement district by the board have consented thereto. Notice of the election shall be given in the manner provided for bond elections in the agency or improvement district, as the case may be, and in other respects the election shall be conducted as are other agency elections.

Interest on any bonds issued by the agency coming due before the proceeds of a tax levied at the next general tax levy after the sale of the bonds are available may be paid from the proceeds of the sale of the bonds.

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The proceeds from the sale of bonds of the agency issued for an improvement district thereof may be expended for the purpose for which the indebtedness was created in any territory annexed to the improvement district after authorization of the bonds.

Effective: [See Text Amendments]

§ 97-20. Issuance of bonds pursuant to Revenue Bond Law of 1941 or other applicable law

Sec. 20. (a) The agency may, when authorized by vote of the electors at a general election or at a special election called for such purpose, issue revenue bonds pursuant to the Revenue Bond Law of 1941, or any other law which by its terms is applicable to this agency, but only to accomplish the purposes set forth in this act.

(b) The board may issue revenue bonds under the Revenue Bond Law of 1941 on behalf of any portion of the agency created as an improvement district and any election for the issuance of those revenue bonds shall be limited to the area of that improvement district. In the case of an improvement district formed specifically for the purpose of issuing revenue bonds pursuant to this section, the procedures for formation, annexation, and exclusion of territory shall be those set forth in Sections 40 to 42, inclusive, provided that the resolution of intention shall not provide for the levy of taxes. If revenue bonds are so issued on behalf of an improvement district, no proceeds of the revenue bonds shall be used to finance public improvements to provide service outside the service area of the improvement district, and only revenues which are derived from rates or charges for providing service within the service area of the improvement district shall be pledged to or used to pay the revenue bonds.

(c) As used in this section, "service area of the improvement district" means the territory of the improvement district as it existed at the time of the bond election plus lands outside the improvement district, if any, being served at the time of the bond election by the improvement district facilities plus additional territory, if any, annexed to the improvement district as it existed at the time of the bond election, not exceeding in the aggregate 40 percent by area of the improvement district as it existed at the time of the bond election.

Effective: [See Text Amendments]

§ 97-21. Improvement districts; formation; bond election; advancement of funds

Sec. 21. Whenever the board deems it necessary to incur a bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works, or property mentioned in this act and to provide for bonded indebtedness to be payable from taxes levied upon less than all of the agency, the board shall, by resolution, declare its intention to form an improvement district and to incur the indebtedness.

The resolution of intention shall state that the board intends to form an improvement district of a portion of the agency which, in the opinion of the board, will be benefited, and to call an election in the proposed improvement district, on the date to be fixed, for the purpose of submitting to the voters thereof the proposition of incurring indebtedness by the issuance of bonds of the agency for the improvement district.

The resolution of intention shall also state all of the following:

(a) The purpose for which the proposed debt is to be incurred.

(b) The amount of debt to be incurred, which may include expenses of all proceedings for the authorization, issuance, and sale of bonds.

(c) That taxes for the payment of the bonds and the interest thereon will be levied exclusively upon the taxable

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property (other than personal property) in the improvement district.

The resolution of intention shall also state that a general description of the proposed improvement, together with a map showing the exterior boundaries of the proposed improvement district with relation to the territory immediately contiguous thereto and to the proposed improvement is on file with the secretary and is available for inspection by any person or persons interested. This map shall govern for all details as to the extent of the proposed improvement district.

The resolution of intention shall also state all of the following:

(a) The time and place for a hearing by the board on the questions concerning the formation and extent of the proposed improvement district, the proposed improvement, and the amount of debt to be incurred.

(b) That, at the time and place specified in the resolution, any person interested, including all persons owning property in the agency or in the proposed improvement district, will be heard. Notice of the hearing shall be given (1) by publishing a copy of the resolution of intention pursuant to Section 6066 of the Government Code prior to the time fixed for the hearing in a newspaper printed and published by the agency if there is a newspaper printed and published in the agency; and (2) by posting a copy of the resolution of intention in six public places within the proposed improvement district at least two weeks before the time fixed for the hearing. The board may change the purpose for which the proposed debt is to be incurred or the amount of bonded debt to be incurred, or both. The board may also change the boundaries of the proposed improvement district, but not so as to include any territory which will not, in its judgment, be benefited by the proposed improvement. The purpose or amount of bonded debt or the boundaries of the proposed improvement district shall not be changed by the board except after notice of its intention to do so, given by publication pursuant to Section 6061 of the Government Code in a newspaper printed and published in the agency, if there is a newspaper printed and published in the agency, and by posting in six public places within the proposed improvement district. The notice shall state the changed purpose and debt proposed and that the exterior boundaries as proposed to be changed are set forth on a map on file with the secretary, which map shall govern for all details as to the extent of the proposed improvement district, and shall specify the time and place for hearing on such change, which time shall be at least 10 days after publication or posting of the notice.

At the time and place fixed in the notice of intention, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing, any person interested, including any person owning property within the agency or the proposed improvement district, may appear and present any matters material to the changes stated in the notice.

At the conclusion of the hearing, the board shall, by resolution, determine whether it is deemed necessary to incur the bonded indebtedness. If so, the resolution shall also state all of the following:

(a) The purpose for which the proposed debt is to be incurred.

(b) The amount of the proposed debt.

(c) That the exterior boundaries of the portion of the agency which will be benefited are set forth on a map on file with the secretary, which map shall govern for all details as to the extent of the improvement district.

(d) That the portion of the agency set forth on the map shall thereupon constitute and be known as "Improvement District No. ____ of the Mojave Water Agency."

The determinations made in the resolution of formation shall be final and conclusive.

After the formation of the improvement district pursuant to this act, all proceedings for the purpose of a bond

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election shall be limited, and shall apply only to the improvement district. Taxes for the payment of the bonds and the interest thereon shall be levied exclusively upon the taxable property (other than personal property) in the improvement district.

After the board has made its determination of the matters required to be determined by the resolution of formation, and if the board deems it necessary to incur the bonded indebtedness, the board shall, by another resolution, call a special election in the improvement district for the purpose of submitting to the voters thereof the proposition of incurring indebtedness by the issuance of bonds of the agency for the improvement district.

The resolution calling the bond election shall state all of the following:

(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 amount of debt to be incurred.

(c) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years.

(d) The maximum rate of interest to be paid, which shall not exceed the interest rate as may be authorized by law at the time of issuance, including, but not limited to, Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, payable as set forth in the resolution calling the election authorizing the issuance of the bonds.

(e) The measure to be submitted to the voters.

(f) The date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred.

(g) The designation of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector, and two clerks in each precinct. However, the board may refer the designation of precincts, the location of polling places, and the names of the officers selected to conduct the election to the county registrar when the agency election is to be consolidated with another election or if the county registrar is to conduct the election for the agency.

(h) That the board deems it necessary to incur the bonded indebtedness.

(i) The improvement district to be benefited by the bonded indebtedness, as set forth in the resolution of formation of the improvement district, and that a map showing the exterior boundaries of the improvement district is on file with the secretary, which map shall govern for all details as to the extent of the improvement district.

(j) That taxes for the payment of the bonds and the interest thereon shall be levied exclusively upon the taxable property (other than personal property) in the improvement district.

Sections 19.1 and 19.2 govern the proceedings, noticing, conducting, and canvassing the returns of any election held for the purpose of forming an improvement district, as well as all proceedings governing the issuance of bonds and contesting the validity of any bonds authorized as a result of the election.

The board may advance general funds of the agency to accomplish the purposes of an improvement district formed pursuant to this act and repay the agency for any advance of funds from the proceeds of the sale of bonds authorized for purposes of the improvement district.

Effective: [See Text Amendments]

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§ 97-22. Repealed by Stats.1984, c. 1128, § 157

Effective: [See Text Amendments]

§ 97-23. Proceedings to test validity of contracts

Sec. 23. An action to determine the validity of a contract may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part of the Code of Civil Procedure.

Effective: [See Text Amendments]

§ 97-24. Claims against agency; law governing; preparation; presentation; audit

Sec. 24. 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.

Effective: [See Text Amendments]

§ 97-25. Vested rights

Sec. 25. The formation of the agency or the enactment of this act shall not impair the vested right of any person, association, corporation or district in or to water or the use thereof.

Effective: [See Text Amendments]

§ 97-26. Repealed by Stats.1970, c. 440, p. 896, § 34

Effective: [See Text Amendments]

§ 97-27. Repealed by Stats.1963, c. 1685, p. 3309, § 25

Effective: [See Text Amendments]

§§ 97-28 to 97-32. Repealed by Stats.1967, c. 166, §§ 22 to 27

Effective: [See Text Amendments]

§§ 97-28 to 97-32. Repealed by Stats.1967, c. 166, §§ 22 to 27

Effective: [See Text Amendments]

§ 97-29.1. Improvement bonds; issuance

Sec. 29.1. The agency may issue improvement bonds 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

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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 Refunding Assessment Bond Act of 1935 (Chapter 732 of the Statutes of 1935), and the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

Effective: [See Text Amendments]

§ 97-32.5. Repealed by Stats.1993, c. 1171 (A.B.311), § 4

Effective: [See Text Amendments]

§ 97-33. Legislative findings and declaration

Sec. 33. The Legislature hereby finds that in the County of San Bernardino there are urgent problems of water conservation, development of water resources, and securing adequate water supplies which are unique to San Bernardino County, and that the county water districts, municipalities, and irrigation districts which 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 economically to plan and develop an adequate water supply, or adequately and feasibly to conserve the water supply of the agency; that to accomplish these ends it is necessary to have a political entity encompassing areas within the various municipalities and districts; and that there is a great scarcity of water within the county for municipal, irrigation, and other uses and there is an urgent need that an adequate supply of water be obtained. Investigation has shown conditions in the county to be peculiar to it and it is hereby declared that general law cannot be applicable to the county and that the enactment of this special law is necessary for the planning, conservation, development, distribution, control and use of said water for the public good and for the protection of life and property therein.

Effective: [See Text Amendments]

§ 97-34. Partial invalidity

Sec. 34. In case any section or sections, or part of any section, of this act shall be found to be unconstitutional or invalid for any reason, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

Effective: [See Text Amendments]

§ 97-35. Short title

Sec. 35. Sections 1 to 35, inclusive, of this act are designated and may be cited and referred to as the "Mojave Water Agency Law." References to "this act" or "herein" in Sections 1 to 35, inclusive, of this act are to the Mojave Water Agency Law.

Effective: [See Text Amendments]

§ 97-36. Rates and charges

Sec. 36. The board of directors, so far as practicable, shall fix such rates and charges for water for delivery within the agency and within each improvement district therein as will result in revenues which will pay not less than the

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amount required to: (a) pay the related operating expenses of the agency, and the improvement district, including variable costs as defined in Section 16 of that portion of water received by the agency from the State, (b) provide for repairs, (c) provide for other expenses of the agency, (d) provide for development of other waters, (e) provide a reasonable surplus for improvements, extensions, and enlargements, (f) pay the interest on any bonded debt, and (g) provide a sinking or other fund for the payment of the principal of such debt as it may become due. Said rates and charges for water in each improvement district may vary from the rates and charges of the agency and of other improvement districts therein.

Effective: [See Text Amendments]

§ 97-37. Adjudication of water rights; assessment against pumping

Sec. 37. (a) The Mojave Water Agency shall have the power to initiate in the name of the agency before any court of the United States or the State of California an adjudication of substantially all of the rights of whatever nature to extract water from any of the ground water basins underlying or affecting the water supply or to divert flowing water within any natural drainage area and to determine the natural safe yield of such ground water basins and stream systems affecting the water supply within the Mojave Water Agency. Any person claiming any right, title or interest to the natural waters within the Mojave Water Agency including those persons set forth in the complaint filed by the agency shall within 30 days after completion of the publication of summons or personal service, appear by answer setting forth the rights so claimed.

(b) At the conclusion of the adjudication provided for in subdivision (a), of all or substantially all of the rights of whatever nature to extract water from any ground water basin underlying or effecting the water supply in the Mojave Water Agency and to divert flowing water within the natural drainage area of the Mojave Water Agency and a determination of the natural safe yield of the basin and stream system affecting the water supply in the Mojave Water Agency and a determination of the amount or extent of which the rights so adjudicated may be exercised without exceeding the natural safe yield of such water supply, the board shall recognize such judicial determination by exempting from assessments against pumping the amount of water obtained by each person whose rights have been so adjudicated which does not exceed his proportionate share of natural safe yield of the water supplies within the adjudicated area. The assessment against pumping may thenceforth be levied on each producer by multiplying the production in acre-feet of water so produced by such producer's water producing facility in excess of his allocated share of the safe yield by the rate of the assessment against pumping fixed and levied by the board for the fiscal year in which such production shall occur.

(c) To the extent that water supplies are augmented under this act, no person shall acquire any property or other right in water distributed by the agency.

Effective: [See Text Amendments]

§ 97-38. Zone of benefit; purpose; establishment; proceedings; tax levy

Sec. 38. For the purpose of paying not less than the variable costs under any contract entered into with the state for the purchase of water and the delivery and use of that water, and in accordance with the provisions of this act, the agency may establish a zone of benefit within any area within which the use of water affects or is affected by the natural available water supply within the agency, which zone of benefit shall be subject to an assessment pursuant to the limitations and conditions stated in this section.

The proceeding to establish a zone of benefit shall be initiated by a notice of intention to establish the zone which shall be published, pursuant to Section 6066 of the Government Code, in a newspaper of general circulation published within the area of the proposed zone of benefit, if there is one, and if not, then in such a newspaper

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published within the agency, and which shall be mailed to each person to whom any parcel or parcels of real property embraced within the proposed zone of benefit is assessed on the last equalized assessment roll available on the date the notice of intention is prepared, at the address shown on the assessment roll or otherwise known to the secretary of the agency. The notice of intention shall describe the area to be embraced within the proposed zone of benefit with sufficient clarity so that affected property owners may determine which of their lands, if any, are within the zone, shall state in general terms the reasons for the proposal to create the zone of benefit, and shall fix a time and place for a public hearing thereon.

At any time not later than the hour set for the public hearing, any owner of property within the proposed zone of benefit may file a written request for exclusion of his or her property, or any portion thereof, from the zone of benefit. The request shall state the name of the owner of the property affected and the street address or other description of the property sufficient to identify it on the last equalized assessment roll. A request for exclusion may be made on behalf of the owner by an agent authorized in writing by the owner to act as agent with respect to the property, provided that a request made on behalf of a private corporation which is an owner of property may be made by any officer or employee of the corporation without that written authorization.

At the time and place stated in the notice, or at any time or place to which the hearing is continued, the board shall hold the public hearing provided for by the notice of intention, at which time any interested person may appear and be heard concerning any matter set forth in the notice of intention or any matters material thereto. Upon the conclusion of the hearing, the board may (a) terminate further proceedings on the proposed assessment, (b) establish the zone of benefit with the boundaries set forth in the notice of intention, or (c) eliminate lands from the proposed zone found not to be benefited by inclusion therein, and establish a zone modified as to area by reason of elimination. The board shall not include any lands within the zone of benefit not included within the area of the proposed zone as contained in the notice of intention. If the board determines to establish a zone of benefit as set forth in clause (b) or (c), the board may levy the assessment within the area of the zone of benefit, unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposed assessment signed by 25 percent of the eligible voters within the area of the zone of benefit are filed with the board, in which event the board shall not levy the assessment without an election. The protests shall be in writing, shall contain a description of the property in which each signer thereof is interested, sufficient to identify the same and, if the signers are not shown on the last equalized tax levy roll as the owners of the property, shall contain or be accompanied by written evidence that the signers are the owners of the property. All protests shall be delivered to the secretary, and no other protests or objections shall be considered.

If an election is held, a majority of the votes cast in the area of the zone of benefit shall be required to approve the assessment.

After its approval, the assessment shall be levied, collected, and enforced at the same time and in the same manner as county taxes.

The board shall make specific findings as to whether or not property as to which a request for exclusion has been filed shall be included within the zone of benefit and shall exclude from the zone any lands which the board finds will not be benefited by inclusion therein. In determining whether or not lands will be benefited by inclusion in the zone, the board shall take into account all of the following:

(a) The condition of the local natural supply of water within the zone of benefit.

(b) The availability of water from the State Water Resources Development System to supplement the supply of water within the zone of benefit.

(c) The economic benefit to the lands resulting from a water supply being made available under the state contract.

(d) The nature, topography and use of the lands.

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(e) Whether the lands can receive water either directly or through improvement in water supply by reason of such importation.

If the zone of benefit is created, the agency may annually thereafter levy an assessment upon the property within the zone of benefit, excluding personal property, in such amounts as shall pay not less than the variable costs of purchasing water under any contract entered into with the state for the purchase of water and delivery and use of that water.

Effective: [See Text Amendments]

§ 97-39. Notice of intent to extract or divert water; contents; penalty

Sec. 39. (a) Any person who intends to dig, bore, or drill a water well, as defined in Section 13710 of the Water Code, any person who intends to cause to have such a well dug, bored or drilled, and any person who intends to divert or cause to be diverted any surface water, within the territory of the agency or such portion thereof as the agency may delineate by ordinance, shall file with the agency at least 15 days before commencement of such construction a "Notice of Intent to Extract or Divert Water" (hereinafter called "notice").

(b) The notice shall be submitted on a form prepared by the agency and shall contain such information as the agency may require, including, but not limited to: (1) the location of the well site or diversion; (2) a description of the type of construction to be used; (3) the proposed uses of the extracted or diverted water, including the lands to be served thereby; and (4) the proposed date of construction. Both the person owning the land or an interest therein and the person who will construct the well or diversion facility shall sign and verify the notice.

(c) Failure to file the notice required by this section shall be punishable by a civil fine of not exceeding five hundred dollars ($500). Both the person owning the land or an interest therein and the person constructing the well or diversion facility shall be assessed under this subdivision.

Effective: [See Text Amendments]

§ 97-40. Improvement districts; formation; election; advancement of funds

Sec. 40. (a) Whenever the board deems it necessary to form an improvement district of a portion of the agency for a purpose other than the incurring of bonded indebtedness, the board shall by resolution declare that it intends to form an improvement district of a portion of the agency which in its opinion will be benefited.

(b) The resolution of intention shall also state:

(1) The purpose for which the proposed improvement district is to be formed.

(2) The estimated expense of carrying out such purpose.

(3) That taxes for carrying out such purpose will be levied exclusively upon the taxable property, other than personal property, in the proposed improvement district.

(c) The resolution of intention shall also state that a map showing the exterior boundaries of the proposed improvement district, with relation to the territory immediately contiguous thereto, is on file with the secretary and is available for inspection by any person or persons interested. This map shall govern for all details as to the extent of the proposed improvement district.

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(d) The resolution of intention shall also state:

(1) The time and place for a hearing by the board on the questions of the formation and extent of the proposed improvement district, the purpose for which it is to be formed, and the estimated expense of carrying out such purpose.

(2) That at such time and place any person interested, including all persons owning property in the agency or in the proposed improvement district, will be heard.

(e) Notice of the hearing shall be given by publishing a copy of the resolution of intention, pursuant to Section 6066 of the Government Code, prior to the time fixed for the hearing in a newspaper circulated in the agency, if there is a newspaper circulated in the agency. Such notice shall also be given by posting a copy of the resolution of intention in three public places within the proposed improvement district for at least two weeks before the time fixed for the hearing.

(f) At the time and place so fixed in the resolution of intention, or at any time or place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing any person interested, including any person owning property in the agency or in the proposed improvement district, may appear and present any matters material to the questions set forth in the resolution of intention. If written protests are filed by the owners of one-half of the value of the property, other than personal property, within the proposed improvement district, as shown by the last equalized assessment roll of the county, further proceedings shall not be taken.

(g) At the conclusion of the hearing, the board shall by resolution determine whether it is necessary to form the improvement district. If so, the resolution shall also state:

(1) The purpose for which the proposed improvement district is to be formed.

(2) The estimated expense of carrying out such purpose.

(3) That the exterior boundaries of the portion of the agency which will be benefited are set forth on a map on file with the secretary, which map shall govern for all details as to the extent of the improvement district.

(4) That such portion of the agency set forth on the map shall thereupon constitute and be known as "Improvement District (A, B, C, or other letter designation) of the Mojave Water Agency."

(h) The determinations made in the resolution of formation shall be final and conclusive.

(i) After the formation of the improvement district pursuant to this section, all taxes levied for the carrying out of its purpose shall be levied exclusively upon the taxable property, other than personal property, in the improvement district.

(j) A copy of the resolution of formation shall be published pursuant to Section 6066 of the Government Code in a newspaper printed and published in the agency if there is a newspaper printed and published in the agency. A copy of the resolution shall also be posted in three public places within the proposed improvement district for at least two weeks.

The resolution of formation shall not be effective until the 31st day after completion of the publication and posting.

(k) If a petition signed by not less than 10 percent of the voters of the proposed improvement district requesting that an election be held on the formation thereof is presented to the board before the effective date of the resolution of formation, the board shall by resolution call a special election in the proposed improvement district for the purpose of submitting the question of the formation of the improvement district to the voters of the proposed

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improvement district.

(l) The board shall provide for holding the special election on the day fixed in the resolution calling the election and in accordance with the provisions of the Elections Code so far as they shall be applicable, except as otherwise provided in this act.

(m) Notice of the holding of the special election shall be given by publishing the resolution calling the election, pursuant to Section 6066 of the Government Code, prior to the date of the proposed election in at least one newspaper printed and published in the Mojave Water Agency, if there is a newspaper printed and published in the agency. The resolution shall also be posted in three public places in the proposed improvement district not less than two weeks prior to the date of the proposed election. No other notice of the election need be given.

(n) The returns of the special election shall be made, the votes canvassed by the board within seven days following the election, and the results thereof ascertained and declared in accordance with the provisions of the Elections Code, so far as they may be applicable, except as otherwise provided in this act.

(o) The secretary, as soon as the result of the special election is declared, shall enter in the records of the board a statement of such results.

(p) If from the special election returns it appears that a majority of the votes cast at such election were in favor of the formation of the improvement district, the formation of the improvement district shall be complete.

(q) No irregularities or informalities in conducting the special election shall invalidate it, if the election has otherwise been fairly conducted.

(r) Any action or proceeding in which the validity of the formation of the improvement district or of any of the proceedings in relation thereto is contested, questioned, or denied shall be commenced within three months from the effective date of the resolution of formation, or if an election is held, within three months from the date of such election; otherwise the formation of the improvement district and all proceedings in relation thereto shall be held to be valid and in every respect legal and incontestable.

(s) The board may advance general funds of the agency to accomplish the purposes of an improvement district formed pursuant to this section.

(t) The board may, in the formation of the improvement district, provide that the agency shall be repaid for any advance of funds, with interest at a rate not to exceed the interest value of money to the agency, from the taxes levied exclusively upon the taxable property, other than personal property, in the improvement district.

(u) Notwithstanding the foregoing, any property which lies outside an improvement district but which, as a result of actions undertaken by the owner or owners of the property after the formation of the improvement district, is benefited by improvements or works undertaken, constructed, and installed within the improvement district shall be subject to a special assessment in an amount which is proportionate to the benefit to that property, as determined in a specific finding by the board that the property is benefited by the improvement, and of the amount of the benefit to the property. Such amount, as so determined, shall be assessed to the owner or owners of the property as shown on the current assessment roll of the County of San Bernardino, and the assessment shall be a lien upon the real property. The board shall by resolution establish the assessment, following a public hearing in accordance with the procedure provided in subdivisions (d) and (e) of this section and after notice by registered mail to the property owner or owners.

Effective: [See Text Amendments]

§ 97-41. Annexation to improvement district; procedure; action to test validity

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Sec. 41. (a)(1) Any portion of the agency, whether contiguous or not to an improvement district thereof, may be annexed to such improvement district in the manner provided in this section.

(2) Annexation proceedings may be initiated by petition. A petition, which may consist of any number of separate instruments, shall be filed with the secretary.

(3) The petition shall be signed by owners of not less than one-half of the value of the property within the area proposed to be annexed, as shown by the last equalized assessment rate of the county.

(4) The petition for annexation shall contain all of the following:

(i) A description of the area proposed to be annexed. Such description may be made by reference to a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the area proposed to be annexed, or may be made in any other definite manner.

(ii) The terms and conditions upon which the proposed area may be annexed as theretofore determined by resolution of the board.

(iii) A prayer that the board declare such area to be annexed to the improvement district.

(5) The petition for annexation shall be accompanied by a certified check payable to the order of the agency in a sufficient amount to reimburse the agency for the expenses of processing and publishing the petition and preparing and making the filings required by law.

(6) Within 10 days of the date of the filing of the petition for annexation, the secretary shall examine the petition and determine whether it is signed by the required number of property owners. Upon request of the secretary, the board shall authorize him to employ persons specially for this purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation.

(7) When the secretary has completed his examination of the petition for annexation, he shall attach to it his certificate, properly dated, showing the result of such examination.

(8) If the secretary finds from the examination that the petition for annexation is signed by the requisite number of property owners he shall certify that the petition is sufficient. If he finds it is not so signed, he shall certify that the petition is insufficient.

(9) If the secretary certifies in his certificate that the petition for annexation is insufficient, the petition may be amended by filing a supplemental petition or petitions within 10 days of the date of such certificate.

(10) Within 10 days after the filing of any supplemental petition or petitions, the secretary shall examine them and certify to the result of such examination as provided in paragraph (6) to (8), inclusive, of this subdivision.

(11) After the time for filing supplemental petitions has expired and all supplemental petitions have been examined, if the secretary's certificate shows that the petition for annexation is sufficient, the secretary shall cause notice of hearing on the petition to be published and posted without delay.

(12) In the event the petition for annexation is signed by all of the owners of property in the area proposed to be annexed, the board may proceed and act thereon without notice and hearing, but shall otherwise comply with the applicable provisions of this subdivision.

(13) The text of the petition for annexation shall be published, pursuant to Section 6066 of the Government Code, prior to the time at which it is to be presented to the board, in at least one newspaper printed and published in the

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agency, if there is a newspaper printed and published in the agency, together with a notice stating the time and place of the meeting at which the petition will be presented. If the petition is contained upon one or more instruments, only one copy of the petition need be published.

(14) No more than five of the names attached to the petition for annexation need appear in the publication of the petition and notice, but the number of signers shall be stated.

(15) The petition and notice shall also be posted in three public places in the improvement district and three public places in the area proposed to be annexed at least two weeks prior to the hearing.

(16) The board shall proceed to hear the petition at the time and place fixed therefor, and any person residing within the agency or improvement district or owning taxable property in the agency or improvement district may appear and be heard at such hearing. Such hearing may be continued from time to time by the board.

(17) At the conclusion of the hearing, if the board finds and determines from the evidence presented at the hearing that the area proposed to be annexed to an improvement district will be benefited thereby, and that the improvement district to which the area proposed to be annexed will also be benefited thereby and will not be injured thereby, the board may, by resolution, approve the annexation.

The resolution shall describe the annexed territory, which may be made by reference to a map on file with the secretary, which map shall govern for all details as to the extent of the annexed area, or may be made in any other definite manner. The resolution shall also state the terms and conditions of annexation as theretofore determined by resolution of the board.

(18) From and after the date of the adoption of the resolution approving the annexation, the area named therein is added to and forms a part of the improvement district.

(19) The taxable property, other than personal property, in the annexed areas shall be subject to taxation after the annexation thereof for the purposes of the improvement district, including the payment of the principal of and interest on bonds and other obligations of the improvement district authorized and outstanding at the time of the annexation. If the terms and conditions established by the board specifically so provide, the taxable property, other than personal property, in the annexed area shall be subject to taxation as if the annexed property had always been a part of the improvement district.

(20) The board may do all things necessary to enforce and make effective the terms and conditions of annexation fixed by it.

(21) Any action or proceeding in which the validity of an annexation to an improvement district pursuant to this subdivision is contested, questioned, or denied shall be commenced within three months after the date of the resolution approving such annexation; otherwise the annexation shall be held to be valid and in every respect legal and incontestable.

(b)(1) The board, by resolution, may initiate proceedings for the annexation of territory within the agency whether contiguous or not to an improvement district to such improvement district.

(2) The resolution proposing annexation shall:

(i) Declare that proceedings have been initiated by the board pursuant to this subdivision.

(ii) State the reason for proposing the annexation.

(iii) Set forth a description of the area proposed to be annexed, which may be made by reference to a map on file

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with the secretary of the agency which map shall govern for all details as to the extent of the area proposed to be annexed.

(iv) State the terms and conditions of the annexation.

(v) State that the owners of property in the area proposed to be annexed may file written protests with the secretary to the annexation or the annexation upon such terms and conditions.

(vi) Fix the time and place of a meeting at which the board will receive written protests theretofore filed with the secretary, receive additional written protests, and hear from any and all persons interested in the annexation.

(3) The text of the resolution proposing annexation shall be published, pursuant to Section 6066 of the Government Code, prior to the time of hearing in at least one newspaper printed and published in the agency, if there is a newspaper published and printed in the agency.

(4) A copy of the resolution proposing annexation shall also be posted in three public places within the improvement district and three public places in the area proposed to be annexed at least two weeks prior to the hearing.

(5) The board shall proceed with the hearing at the time and place fixed therefor and may continue the hearing, if need be, from time to time. All interested persons will be heard at the hearing.

(6) If written protests are filed by the owners of one-half of the value of the property within the area to be annexed as shown by the last equalized assessment roll of the county, further proceedings shall not be taken, and the board shall refuse the annexation by a resolution so stating.

(7) If written protest is not made by the owners of one-half of the value of the property within the area proposed to be annexed, and if, at the conclusion of the hearing, the board finds and determines from the evidence presented at the hearing that the area proposed to be annexed to an improvement district will be benefited thereby, and that the improvement district to which the area proposed to be annexed will also be benefited thereby and will not be injured thereby, the board may, by resolution, approve such annexation.

The resolution shall describe the area annexed, which may be by reference to a map on file with the secretary, which map shall govern for all details as to the extent of the annexed area. The resolution shall also state the terms and conditions of annexation as theretofore determined by resolution of the board.

(8) If the board finds and determines that either the area proposed to be annexed to the improvement district will not be benefited thereby or that the improvement district to which the area is proposed to be annexed will not be benefited thereby and will be injured thereby, the board shall by resolution disapprove such annexation.

(9) From and after the date of the adoption of the resolution approving the annexation, the area described therein is added to and forms a part of the improvement district.

(10) The taxable property, other than personal property, in the annexed area shall be subject to taxation after the annexation thereof for the purposes of the improvement district, including the payment of the principal of and interest on bonds and other obligations of the improvement district authorized and outstanding at the time of the annexation. If the terms and conditions established by the board specifically so provide, the taxable property, other than personal property, in the annexed area shall be subject to taxation as if the annexed property had always been a part of the improvement district.

(11) The board may do all things necessary to enforce and make effective the terms and conditions of annexation fixed by it.

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(12) Any action or proceeding in which the validity of an annexation to an improvement district pursuant to this article is contested, questioned, or denied shall be commenced within three months after the date of the resolution of the board approving the annexation of the territory to an improvement district; otherwise, the annexation shall be held valid and in every respect legal and incontestable.

Effective: [See Text Amendments]

§ 97-42. Exclusion of territory from improvement district; procedure; action to test validity

Sec. 42. (a) Proceedings to exclude territory from an improvement district formed pursuant to Section 40 may be initiated by the board upon its own motion, or shall be initiated by the board upon receipt of a petition for exclusion signed by not less than 10 percent of the voters of the area proposed to be excluded, which states reasons such exclusion will be beneficial to the agency or the improvement district or the territory to be excluded.

(b) Upon adoption of the motion to initiate exclusion proceedings or upon receipt of the petition for exclusion, the board shall adopt a resolution of intention to exclude which shall state:

(1) The method by which the exclusion proceedings were initiated; by motion of the board or by petition of voters.

(2) That taxes for carrying out the purpose of the improvement district will not be levied upon taxable property in the excluded territory following such exclusion in the event such territory is excluded.

(3) That following such exclusion, the taxable property in the territory remaining in the improvement district shall continue to be levied upon and taxed to provide funds for the purposes of the improvement district.

(c) The resolution of intention to exclude shall also state that a map showing the exterior boundaries of the proposed territory to be excluded, with relation to the territory remaining in the improvement district, is on file with the secretary and is available for inspection by any person or persons interested. This map shall govern for all details as to the extent of the proposed exclusion.

(d) The resolution of intention shall also state:

(1) The time and place for a hearing by the board on the questions of the proposed exclusion and the effect of such exclusion upon the agency, the improvement district and the territory to be excluded.

(2) That at such time and place any person interested, including all persons owning property in the agency or in the improvement district, will be heard.

(e) Notice of the hearing shall be given by publishing a copy of the resolution of intention to exclude, pursuant to Section 6066 of the Government Code, prior to the time fixed for the hearing in a newspaper circulated in the agency, if there is a newspaper circulated in the agency. Such notice shall also be given by posting a copy of the resolution of intention to exclude in three public places within the affected improvement district for at least two weeks before the time fixed for the hearing.

(f) At the time and place so fixed in the resolution of intention to exclude, or at any time or place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing any person interested, including any person owning property in the agency, or in the improvement district, may appear and present any matters material to the questions set forth in the resolution of intention to exclude.

(g) At the conclusion of the hearing, the board shall by resolution determine whether it is necessary or desirable to exclude the territory. If so, the resolution shall also state:

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(1) The reasons why such exclusion is necessary or desirable.

(2) That the exterior boundaries of the improvement district following such exclusion are set forth on a map on file with the secretary, which map shall govern all details as to the extent of the then existing improvement district.

(h) The determinations made in the resolution of exclusion shall be final and conclusive.

(i) After the exclusion of territory from the improvement district pursuant to this section, all taxes levied for the carrying out of the improvement district's purpose shall be levied exclusively upon the taxable property in the improvement district as then constituted.

(j) A copy of the resolution of exclusion shall be published pursuant to Section 6066 of the Government Code in a newspaper printed and published in the agency, if there is a newspaper printed and published in the agency. A copy of the resolution shall also be posted in three public places within the improvement district for at least two weeks.

The resolution of exclusion shall not be effective until the 31st day after completion of the publication and posting.

(k) Any action or proceeding in which the validity of the exclusion of the territory from the improvement district or of any of the proceedings in relation thereto is contested, questioned, or denied shall be commenced within three months from the effective date of the resolution of exclusion; otherwise, the exclusion and all proceedings in relation thereto shall be held to be valid and in every respect legal and incontestable.

Effective: [See Text Amendments]

§ 97-43. Dissolution of improvement district; procedure; action to test validity

Sec. 43. (a) Notwithstanding any other provision herein, whenever the board deems it necessary for any improvement district to be dissolved, it shall by resolution declare its intention to dissolve the improvement district.

(b) The resolution of intention shall state:

(1) The reason why the improvement district should be dissolved.

(2) If the improvement district was formed pursuant to Section 21 hereof, that no bonds have been issued for the improvement district or are outstanding.

(3) If the improvement district was formed pursuant to Section 40 hereof, that no indebtedness or liability was incurred for the improvement district or is outstanding.

(4) That a map showing the exterior boundaries of the improvement district, with relation to the territory immediately contiguous thereto, is on file with the secretary and is available for inspection by any person or persons interested.

(5) The time and place for a hearing by the board on the question of the dissolution of the improvement district.

(6) That at such time and place any person residing within the agency or improvement district or owning taxable property in the agency or improvement district may appear and be heard.

(c) Notice of the hearing shall be given by publishing a copy of the resolution, pursuant to Section 6066 of the Government Code, prior to the time fixed for the hearing in a newspaper circulated in the agency, if there is a

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newspaper circulated in the agency. Such notice shall also be given by posting a copy of the resolution in three public places within the improvement district for at least two weeks before the time fixed for the hearing.

(d) At the time and place fixed in the resolution of intention, or at any time or place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing any person residing within the agency or improvement district or owning taxable property in the agency, or in the improvement district, may appear and present any matters material to the proposed dissolution.

(e) At the conclusion of the hearing, the board shall by ordinance determine whether it is necessary to dissolve the improvement district. If so, the ordinance shall state that the exterior boundaries of the improvement district are set forth on a map on file with the secretary and shall declare the improvement district dissolved. The determinations made in the ordinance shall be final and conclusive.

(f) When the ordinance declaring an improvement district dissolved becomes effective, the dissolution of such improvement district is complete.

(g) The taxable property within the boundaries of the dissolved improvement district shall continue to be taxed for any indebtedness of the district contracted for such dissolved improvement district until the indebtedness has been satisfied, to the same extent that such property would be taxable for such purpose if the dissolution had not occurred.

(h) Any action or proceeding in which the validity of the dissolution of an improvement district, or any of the proceedings in relation thereto, is contested, questioned, or denied shall be commenced within three months from the effective date of the ordinance dissolving the improvement district; otherwise, the dissolution of the improvement district and all proceedings in relation thereto shall be held to be valid and in every respect legal and incontestable.

Effective: [See Text Amendments]

§ 97-44. Improvement districts; validation of proceedings

Sec. 44. Any proposition to issue bonds of the agency for an improvement district thereof for the purposes of the agency, including the collection, treatment, and disposal of sewage, waste, and storm water, which has been submitted to the voters of such improvement district at an election held therein, whether called or held before the effective date of this section, and all proceedings leading to the formation of such improvement district and to such election, are hereby ratified, confirmed, and validated, and any bonds authorized at such election may be issued as legal obligations of the agency for such improvement district.

Effective: [See Text Amendments]

§ 97-46. Implementation of judgment; authorized actions

Sec. 46. For the purpose of implementing the judgment of the Superior Court in and for the County of Riverside in City of Barstow, et al. v. City of Adelanto, et al. (Case Number 208568), the agency may do any of the following:

(a) Employ administrative personnel, engineering, legal, accounting, or other services and consulting assistants that the agency determines to be appropriate.

(b) Adopt regulations that do all of the following:

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(1) Regulate the amounts of production.

(2) Identify approved devices or methods to measure or estimate production.

(3) Require any producer who provides piped water for human consumption to more than five service connections, within three years after the date of the adoption of the regulations, to install a water meter on each service connection.

(4) Set forth the procedures and schedules applicable to any assessment imposed pursuant to Section 47. The regulations shall require the agency to hold a noticed public hearing prior to imposing or increasing that assessment. The agency shall include in the public notice all of the following information:

(A) The amount of the proposed assessment or increase.

(B) The reason for the proposed assessment or increase.

(C) The basis on which the proposed assessment or increase was calculated.

(D) The method and frequency of collection of the assessment.

(E) The length of time for which, and the property on which, the proposed assessment or increase is to be imposed.

(c) Install, operate, and maintain wells, measuring devices, or meters necessary to monitor streamflow, precipitation, and groundwater levels and to obtain necessary data.

(d) Encourage appropriate regulatory agencies to enforce reasonable water quality regulations affecting groundwater supplies within the district, including the regulation of solid and liquid waste disposal.

(e) Maintain a current list of producers for the purposes of notifying them of the actions of the agency.

(f) Borrow money in anticipation of the receipt of the proceeds of assessments in an amount not to exceed the annual amount of assessments imposed but not collected.

(g) Require each producer to submit to the agency, pursuant to procedures to be established by the agency, a report that includes the total production of the producer for each reporting period rounded off to the nearest tenth of an acre-foot, and any additional information and supporting documentation that the agency may require.

Effective: [See Text Amendments]

§ 97-47. Assessments or fees on producers; resolution or ordinance; regulations

Sec. 47. (a) The agency may impose, by resolution or ordinance, assessments or fees on each producer, in accordance with the procedures and schedules set forth in the regulations adopted pursuant to this section, for the purpose of implementing the judgment of the Superior Court in and for the County of Riverside in City of Barstow, et al. v. City of Adelanto, et al. (Case Number 208568) or as the agency determines to be necessary.

(b) The agency shall set forth the purpose of any fee or assessment imposed pursuant to this section.

(c) A resolution or ordinance proposed to be adopted pursuant to this section shall be set for public hearing not less than 10 days prior to the hearing, with notice pursuant to Section 6061 of the Government Code. Notice shall be mailed to any person requesting notice.

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(d) The agency shall prepare and make available for public inspection, not less than 14 days prior to a hearing regarding a proposed resolution or ordinance, information regarding the amount of any proposed fee or assessment and its purpose.

(e) The agency shall adopt rules and regulations for the imposition of fees and assessments pursuant to this section.

(f) A fee or assessment imposed pursuant to this section shall take effect immediately upon the date of adoption, or upon a subsequent date as set by the agency, and shall be collected pursuant to the rules and regulations adopted pursuant to subdivision (e).

Effective: [See Text Amendments]

§ 97-48.3. Lien; unpaid fees or assessments; collection; compensation

Sec. 48.3. (a)(1) Except as specified in paragraph (2), the amount of an unpaid fee or assessment imposed pursuant to Section 47 constitutes a lien on that property as of the same time and in the same manner as does the tax lien securing annual county ad valorem property taxes.

(2) If, during the year preceding the date on which the first installment of real property taxes which evidence the charges appears on the roll, any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien or bona fide encumbrance for value has been created and attached thereto, a lien shall not be imposed on that property.

(b) The amount of any unpaid fee or assessment imposed pursuant to Section 47 shall be collected in the same manner, by the same persons, and at the same time as, together and not separately from, the next collection of annual county ad valorem property taxes imposed upon the real property.

(c) The amount of compensation to the county for collecting unpaid fees and assessments pursuant to this section shall be fixed by agreement between the board of supervisors of the county and the board.

Effective: [See Text Amendments]

§ 97-48.5. Certificate of delinquency; amount; lien

Sec. 48.5. (a) If the agency determines that fees or assessments imposed pursuant to Section 47 are unpaid, the agency may, at its discretion, secure the amount of those fees or assessments by filing a certificate in the office of the county recorder in the county in which the real property subject to those fees or assessments is located, stating the delinquent amount, and the name and address of a person liable for that amount.

(b) From the date of recordation of the certificate, the amount of an unpaid fee or assessment, together with any penalty or interest thereon, constitutes a lien on all real property within the county owned, or later acquired prior to expiration of the lien, by the person liable for the unpaid fee or assessment.

(c) A lien shall continue for 10 years from the date of filing the initial certificate of record or, subsequently, for 10 years from the date of filing a certificate to extend the lien. A lien may be extended by filing a new certificate in the office of the county recorder of any county, which shall from that date also apply to any additional real property in the recording county that belongs to the person liable for the unpaid fee or assessment.

(d) A lien shall have the force and effect, and the priority, of a judgment lien.

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Current through Ch. 71 of 2005 Reg.Sess. urgency legislation (except Ch. 48) & Governor's Reorganization Plans No. 1 & 2 of 2005
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