

**FRESNO METROPOLITAN FLOOD CONTROL ACT**

**CHAPTER 73**

**WATER CODE APPENDIX**

**STATE OF CALIFORNIA**

CHAPTER 73. FRESNO METROPOLITAN FLOOD CONTROL ACT

**Sec.**

- 73-1. Creation; name; short title.
- 73-2. Boundaries.
- 73-3. Organization election.
- 73-4. Organization election; ballot; effect of favorable vote; organization order; unfavorable vote; resubmission.
- 73-5. Governing board; officers.
- 73-6. Directors; organization meeting; classification; chairman; secretary; quorum; meetings; vacancies; rules.
- 73-7. Objects and purposes.
- 73-8. Public corporation; powers.
- 73-9. Contracts with United States, state, county, etc.
- 73-10. Reimbursement of organization expenses; rental for quarters; contracts for engineering or legal services.
- 73-11. Compensation of directors; expenses.
- 73-11.5. Claims for money or damages.
- 73-12. Unauthorized indebtedness.
- 73-13. Contracts for materials and supplies.
- 73-14. Borrowing for ordinary purposes.
- 73-15. Bonds; authorization; election call.
- 73-16. Bond election; publication of resolution; vote required.
- 73-17. Bonds; form and contents.
- 73-18. Bonds; denominations; signatures.
- 73-19. Callable bonds.
- 73-19.5. Refunding bonds; issuance without election; purpose; authorization; sale; disposition of proceeds; tax for payment of bonds.
- 73-20. Bonds; issuance and sale.
- 73-21. Bonds; tax for principal and interest payments.
- 73-22. Estimate of money needed.
- 73-22(a). Reduction of assessment in assessment district or zone.
- 73-23. Annual tax levy.
- 73-24. Construction of works; special assessment; applicability of improvement acts; definitions; exemption from special assessment, investigation, limitation and majority protest act.
- 73-25. Additional bonds.
- 73-26. Eminent domain; included powers.
- 73-27. Right of way upon public lands.
- 73-28. Definitions.
- 73-29. Liberal construction.
- 73-30. Partial invalidity.
- 73-31. Annexation and exclusion of land; initiation of proceedings.
- 73-32. Filing petition.
- 73-33. Contents of petition.
- 73-34. Time and place for hearing; notice; publication.
- 73-35. Contents of notice.
- 73-36. Hearing evidence.
- 73-37. Failure to show cause as assent to boundary changes.
- 73-38. Resolution of annexation or exclusion; declaration of altered boundaries.
- 73-39. Protest; form and requisites; calling election.
- 73-40. Resolution calling election; form and contents; notice; publication; conduct of election.
- 73-41. Majority vote; resolution declaring annexation or exclusion; description of altered boundaries.
- 73-42. Entry of resolution in minutes; filing certified copies.
- 73-43. Liability of excluded territory.
- 73-44. Payment by owners of land as condition precedent to annexation.
- 73-45. Effect of change of boundaries.
- 73-46. Zones.

## **CHAPTER 73. FRESNO METROPOLITAN FLOOD CONTROL ACT**

*An Act to be known as Fresno Metropolitan Flood Control Act creating a district subject to the approval of the voters within the district, to be known as Fresno Metropolitan Flood Control District, for the purpose of acquiring and constructing facilities for flood control and the drainage of flood, storm and waste waters and the conservation of any thereof, and providing for the government and powers of said district. (Stats. 1955. c. 503, p. 971.)*

## SECTION 73-1, CALIFORNIA WATER CODE APPENDIX

### § 73-1. Creation; name; short title

A flood control district is hereby created, subject to vote of the voters therein as hereinafter provided, to be called Fresno Metropolitan Flood Control District (hereinafter in this act sometimes referred to as "district"). This act may be designated and referred to as the "Fresno Metropolitan Flood Control Act" and any reference thereto by such designation shall be deemed sufficient for all purposes. (Stats. 1955, c. 503, p. 971, §1.)

## SECTION 73-2, CALIFORNIA WATER CODE APPENDIX

### § 73-2. Boundaries

Said district shall consist of that territory in the County of Fresno, California, lying within exterior boundaries generally described as follows:

Commencing at the southeast corner of Section 24, Township 14 South, Range 20 East, Mount Diablo Base and Meridian;

Thence west along the south boundary of said Section 24 and the south boundary of Sections 23, 22 and 21 to the southwest corner of said Section 21;

Thence north along the west boundary of said Section 21 to the southeast corner of Section 17;

Thence west along the south boundary of Section 17 and the south boundary of Section 18 to the southeast corner of said Section 18;

Thence north along the west boundary of Section 18 and the west boundary of Sections 7 and 6, Township 14 South, Range 20 East, and the west boundary of Sections 31, 30, 19, 18, 7 and 6, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, to the west quarter corner of said Section 6, which is the east quarter corner of Section 1, Township 13 South, Range 19 East;

Thence west along the east and west centerline of Section 1 to the west boundary of the east half of the east half of said Section 1;

Thence north along said west boundary of the east half of the east half of said Section 1 to the north boundary of said Section 1, which is the south boundary of Section 36, Township 12 South, Range 19 East, Mount Diablo Base and Meridian;

Thence east along the south boundary of said Section 36 to the south quarter corner of said Section 36;

Thence north along the north and south centerline of said Section 36 to the north boundary of the south half of the south half of said Section 36;

Thence east along said north boundary of the south half of the south half of Section 31, Township 12 South, Range 20 East, Mount Diablo Base and Meridian, to the centerline of Van Ness Avenue;

Thence south along said centerline of Van Ness Avenue to the north boundary of Section 6, Township 13 South, Range 20 East, Mount Diablo Base and Meridian;

Thence east along the north boundary of said Section 6 and the north boundary of Sections 5, 4, 3, 2 and 1, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, to the northeast corner of said Section 1;

Thence south along the east boundary of said Section 1 to the southeast corner of said Section 1, which is the northwest corner of Section 7, Township 13 South, Range 21 East, Mount Diablo Base and Meridian;

Thence east along the north boundary of said Section 7 to the north quarter corner of said Section 7;

Thence south along the north and south centerline of said Section 7 to the south boundary of said Section 7, which is the north boundary of Section 18, Township 13 South, Range 21 East, Mount Diablo Base and Meridian;

Thence east along said north boundary of said Section 18 and the north boundary of Section 17, Township 13 South, Range 21 East, Mount Diablo Base and Meridian, to the intersection with the westerly boundary of the right-of-way of the Helm Canal;

Thence southerly and easterly along said right-of-way of the Helm Canal to the intersection with a line parallel with and 50 feet west of the east boundary of said Section 17;

## SECTION 73-2, CALIFORNIA WATER CODE APPENDIX

### § 73-2. Boundaries (Continued)

Thence south along said line parallel with and 50 feet west of the east boundary of said Section 17 to the centerline of the right-of-way of the Gould Canal;

Thence easterly and southerly along said centerline of the right-of-way of said Gould Canal across said Section 17 and across Sections 16 and 21, Township 13 South, Range 21 East, Mount Diablo Base and Meridian, to the east boundary of said Section 21;

Thence south along said east boundary of said Section 21 to the southeast corner of said Section 21;

Thence west along the south boundary of said Section 21 and the south boundary of Section 20, Township 13 South, Range 21 East, Mount Diablo Base and Meridian, to the intersection with a line parallel with and 30 feet west of the east boundary of said Section 20;

Thence south along said line parallel with and 30 feet west of the east boundary of said Section 20 and Sections 29 and 32, Township 13 South, Range 21 East, Mount Diablo Base and Meridian, to the intersection with the south boundary of the northeast quarter of the northeast quarter of said Section 32; thence south 4° 32' west a distance of 381.2 feet to a point 60 feet west of the east boundary of said Section 32;

Thence south along a line parallel with and 60 feet west from the east boundary of said Section 32, to a point 225 feet north from the south boundary of the northeast quarter of said Section 32; thence south 10° 05' east a distance of 228.5 feet to a point on the south boundary of the northeast quarter of said Section 32, 20 feet west of the east one quarter corner of said Section 32;

Thence south along a line parallel with and 20 feet west of the east boundary of said Section 32 in Township 13 South, Range 21 East, and Section 5 in Township 14 South, Range 21 East, to the south boundary of the northeast quarter of the northeast quarter of said Section 5;

Thence east 20 feet to the east boundary of said Section 5;

Thence south along the east boundary of said Section 5 to the intersection with the centerline of the right-of-way of the Fancher Creek Canal;

Thence southwesterly along the centerline of said right-of-way across said Section 5 and across Section 8, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, to the intersection with the northerly boundary of the Southern Pacific Railroad Company right-of-way;

Thence westerly along the northerly boundary of said right-of-way across said Section 8 and across Section 7, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, to the intersection with the north and south centerline of said Section 7;

Thence south along said north and south centerline of said Section 7 to the south quarter corner of said Section 7;

Thence west along the south boundary of said Section 7 to the southwest corner of said Section 7, which is the northeast corner of Section 13, Township 14 South, Range 20 East, Mount Diablo Base and Meridian;

Thence south along the east boundary of said Section 13 and the east boundary of Section 24, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, to the southeast corner of said Section 24, the point of beginning. (*Stats. 1955, C. 503, p. 971, §2, as amended Stats. 1967, c. 575, p. \_\_, §1.*)

## SECTION 73-3, CALIFORNIA WATER CODE APPENDIX

### § 73-3. Organization Election

The Board of Supervisors of Fresno County shall not earlier than 30 days after this act takes effect, and not later than one year from the effective date of this act (unless postponed for the purpose of consolidating said district election with a statewide primary or general election to be held within 18 months from the effective date of this act), give notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice need not describe the boundaries of the proposed district, but shall refer to this act for a particular description of such boundaries. The notice shall state the date of the election, the hours the polls will be open, and shall designate the election precincts, the polling place within each precinct and the names of the election officers, one inspector, one judge and two clerks, appointed for each precinct. The precincts shall consist of the regular election precincts established in the county for state and county elections or consolidations thereof (not exceeding six regular election precincts in anyone consolidated precinct thereof). Any territory which comprises less than an entire regular election precinct may be consolidated with any regular election precinct or precincts for the purpose of said election. The polls at said election shall be opened at 7 o'clock a.m. the day of said election and kept open until 7 o'clock p.m. of the same day. Only qualified voters residing within the district shall be entitled to vote at said election. The board of supervisors shall by resolution provide for said notice. Said notice shall be published in the district pursuant to Section 6063 of the Government Code, the first publication to be at least 21 days prior to the date of election.

Said election may be consolidated with any city election, county election or statewide primary or general election under the provisions of the Elections Code relating to the consolidation of elections, and in case of consolidation the notice herein provided for may be modified as provided in Section 10058 of the Elections Code. (*Stats. 1955, c. 503, p. 973, §3, as amended Stats. 1957, c. 357, p. 1150, §304.*)

## SECTION 73-4, CALIFORNIA WATER CODE APPENDIX

### **§ 73-4. Organization Election; Ballot; Effect of Favorable Vote; Organization Order; Unfavorable Vote; Resubmission**

Upon the ballot to be used at said election shall be printed substantially the following measure or proposition:

"Shall the proposed Fresno Metropolitan Flood Control District be organized as provided in the act of the Legislature known as the Fresno Metropolitan Flood Control District Act?" The ballot shall be substantially in the form used for county elections upon measures, and shall contain substantially the instructions for voting upon a proposition or measure which are contained in the Elections Code relating to state or county elections. In all particulars not provided in this act such election shall be held and conducted and the returns thereof canvassed and declared in the manner provided in the Elections Code for state or county general elections as held in the County of Fresno. Absentee ballots may be cast in the manner provided for county elections in the County of Fresno. If a majority of the voters voting upon the proposition of the organization of said district are in favor of the organization thereof, then said district shall be deemed to be and shall be created with all the rights, powers and duties prescribed in this act and the board of directors of said district shall organize and carry out the purposes of this act. Immediately upon the canvass of the vote the Board of Supervisors of Fresno County must file with the Secretary of State of the State of California a certificate to the effect that the proposal to organize said district was adopted, and from the date of such filing the district shall be deemed created. A certified copy of the order or declaration of the board of supervisors declaring the district organized shall be recorded in the Office of the County Recorder of Fresno County. The order of the board of supervisors declaring the result of such election and declaring the proposal to create the district duly adopted (if it shall be adopted) shall be conclusive evidence that all steps necessary for the creation and organization of said district have been duly performed, and that said district has been duly organized and created.

In the event a majority of the votes cast upon the proposition are not in favor of the organization of the district, the board of supervisors may again submit the proposition at an election to be held at any time within two years from the date of the election at which it failed to carry. Any such election shall be called, held and conducted substantially as provided in Sections 3 and 4 hereof.

Before any assessment tax may be levied for such district the filings with the State Board of Equalization and the county assessor required by Chapter 8, Part 1, Division 2, Title 5 of the Government Code<sup>1</sup> shall be made substantially as provided in said chapter. (*Stats. 1995, c. 503, p. 973, §4.*)

---

<sup>1</sup>Government Code §54900 et. seq.

## SECTION 73-5, CALIFORNIA WATER CODE APPENDIX

### § 73-5. Governing Board; Members

The governing board of the district shall consist of a board of directors of seven members. The legislative body of the City of Fresno shall appoint four members to the board, none of whom shall be public officials of the city. The Board of Supervisors of the County of Fresno shall appoint two members to the board, none of whom shall be public officials of the county. The legislative body of the City of Clovis shall appoint one member to the board, who shall not be a public official of the City of Clovis. The appointing body may remove any member of the board appointed by it at any time by a majority vote of the whole number of members of such body. All members of the board of directors shall reside within the district. The County Assessor, County Tax Collector, County Auditor and County Treasurer of the County of Fresno, and their successors in office, shall be ex officio officers of the district, and their assistants, deputies, clerks and employees shall be ex officio assistants, deputies, clerks and employees, respectively, of the district, and those ex officio officers shall respectively perform, unless otherwise provided by the board of directors, without additional compensation, the same various duties for the district as for the County of Fresno, in order to carry out the provisions of this act. The secretary of the board of directors shall be appointed by the board. The board may also appoint such attorneys, engineers and other employees as it may see fit. *(Added by Stats. 1982, c. 661, p. 2681, §3.)*

## SECTION 73-6, CALIFORNIA WATER CODE APPENDIX

### § 73-6. Directors; Organization Meeting; Chairperson; Secretary; Terms; Quorum; Meetings; Vacancies; Seal

(a) Within 30 days after creation of the district, the members of the Board of Directors shall be appointed by the appointing bodies, respectively, and all of the directors shall qualify by taking and filing with the County Clerk of Fresno County the oath of office provided for public officials. The oath of office may be administered by the appointing bodies or the secretary of the board. The directors shall, as soon as convenient, meet and organize by the selection of one of their number as chairperson of the board. They shall also select the secretary of the board. The director appointed by the City of Clovis, one director appointed by the board of supervisors, and two of the directors appointed by the City of Fresno shall hold terms of office which shall initially expire on August 3, 1958. One director appointed by the board of supervisors and two of the directors appointed by the City of Fresno shall hold terms of office which shall initially expire on August 3, 1960. Following the initial expiration dates, all directors shall be appointed and hold office for four years. Directors for whom the term of office has expired shall continue to serve as a member of the board of directors until the respective appointing body shall reappoint that director to a new term of office or shall appoint a new director.

(b) The chairman of the board shall hold office for a term of two years from the date of his election as chairman. The secretary of the board shall hold office at the pleasure of the board. Four members of the board shall constitute a quorum, and the decision of a majority of all of the members of the board shall be necessary to take any action, unless otherwise in this act provided; provided, however, that if a meeting is not attended by a majority of the members of the board, a lesser number may adjourn the meeting to a specified time and any meeting may be adjourned by the vote of a majority of the members present.

(c) The board shall by resolution fix a regular time and place of meeting, and no notice of regular meetings need be given. The board shall also provide the method of calling special meetings and of giving notice thereof, but no special meeting shall be called upon less than 24 hours notice, except that in an emergency a special meeting may be called upon not less than three hours notice or may be held pursuant to a waiver of notice signed by all members of the board and filed with the minutes of the meeting. Any such emergency call or waiver shall set forth a general statement of the facts determined to create the emergency. No defect in such statement shall invalidate the special meeting. If any vacancy occurs in any appointive office of the board of directors, the vacancy shall be filled within 60 days from the date it occurs in the same manner as the original appointment was made. If any director is absent from three consecutive meetings of the board of directors, the secretary of the board shall report the absence to the appointing body. The board shall adopt a seal. It may also provide rules and regulations for the conduct of its meetings and may change such rules and regulations from time to time. (*Amended by Stats. 1982, c. 661, p. 2681, § 4; Stats. 1989, c. 573, § 1.*)

## SECTION 73-7, CALIFORNIA WATER CODE APPENDIX

### § 73-7.           **Objects and Purposes; Conclusive Presumption of Benefit**

(a) The objects and purposes of this act and of the district shall be to provide for (1) the control of flood, storm, and other waste waters of or within the district, including waters which arise outside the district and which flow or drain into or through the district; (2) the protection from damage by flood, storm, or waste waters of private property and of public highways and other public property within the district; and (3) the conservation of flood, storm, waste, and other surface waters for beneficial and useful purposes by spreading, storing, retaining, or causing those waters, or any part thereof, to percolate into the soil within or without the district or the saving and conservation in any manner of any or all of those waters.

(b) The land within the district, and each drainage area and zone thereof, shall be conclusively presumed to benefit from the continued operation and maintenance of the district (1) in relation to the value of the land and the improvements thereon or (2), in the alternative, in relation to the use to which the land may be put and the services and benefits provided, and shall be subject to assessment as provided by this act. Nothing in this subdivision shall abrogate the findings required by Sections 31 and 38 of this act. (*Amended by Stats. 1982, c. 661, p. 2682, § 5; Stats. 1985, c. 1229, §4, eff. Sept. 30, 1985.*)

## SECTION 73-8, CALIFORNIA WATER CODE APPENDIX

### § 73-8. Public Corporation; Powers

The district shall be and constitute a public corporation, and as such has the powers enumerated in this act, all powers necessarily or reasonably implied therefrom, and all powers necessarily or reasonably implied from the creation and existence of the district. The powers include the following:

1. To have perpetual succession.
2. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.
3. To have and exercise the power of eminent domain.
4. To take by grant, exchange, purchase, including for cash, promissory note secured by purchase money deed of trust, assumption of existing indebtedness, or any combination thereof, gift, lease, devise, or otherwise and to hold, use, and enjoy real or personal property of every kind within or without the district necessary to or convenient for the full exercise of its powers.
5. To acquire lands, rights-of-way, easements, privileges, and property of every kind and nature, to construct, maintain, and operate any or all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized, or, pursuant to a contract authorized by paragraph 10 of this section, any works or improvements owned or constructed by the City of Fresno, the City of Clovis, the County of Fresno, Fresno Irrigation District, or any other public agency, or any two or more thereof, and used in whole or in part for flood control, storm drainage, or water conservation purposes.
6. To levy or cause to be levied an assessment tax for the purpose of providing funds for the district and for paying any obligations thereof to carry out any of the objects and purposes of this act, all of which are of benefit to the lands and improvements of the district.
7. To levy or cause to be levied assessments or benefit assessments as provided by the Water Code, the Revenue and Taxation Code, the Government Code, or the Streets and Highways Code.
8. To incur indebtedness and to issue notes, bonds, or other evidence of that indebtedness in the manner herein provided.

## SECTION 73-8, CALIFORNIA WATER CODE APPENDIX

### §73-8. Public Corporation; Powers (Continued)

9. To make contracts and to employ appraisers, consultants, attorneys, engineers, and other technical advisers and all employees necessary or convenient for the administration of the district, the maintenance and operation of any works under its jurisdiction, and the planning of any works or construction under this act.
10. To contract with the City of Fresno, County of Fresno, Fresno Irrigation District, or any other public agency or any public utility for the use of any rights-of-way, easements, lands, works, or property owned by any thereof which are necessary, convenient, or useful to the district, or necessary or convenient for the construction or operation of any flood control works or storm drain works proposed to be financed by the flood control district; to contract with any of such public agencies for the acquisition or construction by such public agency of any flood control or storm drain works financed by the district, or the maintenance and operation thereof, or for any or all of the foregoing, and the flood control district may carry out any or all of its powers either separately or in conjunction with one or more of the public agencies, and may make any contract or lease or accept any conveyance of property necessary or convenient for the accomplishment of the purposes of the flood control district. The powers granted by this subparagraph shall be liberally construed.
11. To develop property for recreational uses and purposes in connection with the use thereof for control or conservation of waters or to lease to or contract with individuals or public or private agencies for use or for development and use thereof for the recreational purposes.
12. To sell or dispose of real property, rights to surface or groundwaters, or any interest therein or part thereof whenever, in the judgment of two-thirds of the board of directors, the real property, water rights, or interest therein or part thereof is no longer required for the purposes of the district and to pay any compensation received therefore into the general fund of the district and use the same for the purposes of this act. To lease or let real property or rights to surface or groundwaters and sell, dispose of, lease, or let personal property or interest therein or part thereof, whenever, in the judgment of a majority of all the members of the board of directors, the real or personal property, or any interest therein or part thereof is no longer required for the purposes of the district or may be leased or let for any purpose without interfering with the use thereof for the purposes of the district, and to pay any compensation received therefore into the general fund of the district and use the same for the purposes of this act.
13. To acquire for the objects and purposes of this act and the district by grant, purchase, gift, lease, devise, permit, or otherwise and to hold, use, and enjoy the rights to surface and groundwaters and to undertake those acts necessary to the beneficial use of those waters.

## SECTION 73-8, CALIFORNIA WATER CODE APPENDIX

### §73-8. Public Corporation; Powers (Continued)

14. To levy fees and charges for the services, supplies, or material provided by district, the fees and charges, duly adopted by resolution of the district, not to exceed the actual cost of the services, supplies, or material.
15. To enact and enforce ordinances determined necessary and convenient to the exercise of the authority and powers of the district and to the accomplishment of the objects and purposes thereof. (*Added by Stats.1982, c. 661, § 7. Amended by Stats.1985, c. 1229, § 5, eff. Sept. 30, 1985; Stats.1989, c. 573, § 2.*)

## SECTION 73-9, CALIFORNIA WATER CODE APPENDIX

### § 73-9. Contracts with United States, State, County, etc.

Sec. 9. The district may enter into contracts and do any and all acts necessary or proper for the performance of any agreement with the United States or the State of California or the County of Fresno, the City of Fresno, the City of Clovis, or the Fresno Irrigation District, or any public or private corporation, association, firm or individual, or any number of them for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any levees, works, canals or other property of any kind which might lawfully be acquired or owned by the district, and may acquire the right to carry water through any artificial watercourse, canal, ditch or conduit not owned or controlled by the district, and may grant to any owner or lessee of any such canal, ditch or conduit (including any artificial watercourse used in part for irrigation purposes) the right to the use of any water carried through any such artificial watercourse, canal, ditch or conduit, or any canal, ditch or conduit of the district. Said district may also agree to indemnify the United States of America, the State of California, or any county, city, or irrigation district which manages, controls, or operates works constructed by or for or used by the flood control district for flood control, drainage or water conservation purposes. (*Amended by Stats.1982, c. 661, p. 2684, § 8.*)

## SECTION 73-10, CALIFORNIA WATER CODE APPENDIX

### **§ 73-10. Reimbursement of Organization Expenses; Rental for Quarters; Contracts for Engineering or Legal Services**

Sec. 10. The district shall reimburse the County of Fresno and the City of Fresno for any expenses incurred by them in the formation of said district. The district shall also pay to the County of Fresno or to the City of Fresno reasonable compensation for any quarters rented therefrom by the district or any services rendered to the district by any officers or employees of such county or city; provided, however, that no compensation shall be paid the city or the county for the service of any public official of such city or county as a member of the board of directors of the district. The board may also contract with the city or with the county for the furnishing by such city or county of engineering or legal services and the reasonable compensation to be paid such city or county for such service. (*Stats. 1955, c. 503, p. 977, § 10.*)

## SECTION 73-11, CALIFORNIA WATER CODE APPENDIX

### § 73-11. Compensation of Directors; Expenses

Sec. 11. Each member of the board of directors shall receive not to exceed one hundred dollars (\$100) for each day=s attendance at meetings of the board or committees thereof or for each day engaged in other official business under order of the board, except that the directors shall not be compensated for more than the maximum number of days permitted by Section 20202 of the Water Code, or six days, whichever is greater. The board of directors shall establish the maximum number of days for which compensation shall be provided, not to exceed the limit set forth in this section, and may increase the amount received per meeting in accordance with Section 20202 of the Water Code. Each member of the board of directors shall receive, in addition to these amounts, all actual and necessary expenses while engaged in official business under the order of the board. *(Added by Stats.1982, c. 661, p. 2685, § 10. Amended by Stats.1989, c. 573, § 3.)*

## SECTION 73-11.5, CALIFORNIA WATER CODE APPENDIX

### § 73-11.5 Claims for Money or Damages

Sec. 11.5. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto. (*Added Stats.1959, c. 1728, p. 4172, § 77, as amended Stats.1963, c. 1715, p. 3412, § 104.*)

## SECTION 73-12, CALIFORNIA WATER CODE APPENDIX

### § 73-12      **Unauthorized Indebtedness**

Sec. 12. The board of directors shall have no power to incur any debt or liability whatever in excess of the express provisions of this act, and any debt or liability incurred in excess of said provisions shall be and remain void. (*Stats. 1955, c. 503, p. 978, § 12.*)

**§ 73-13      Contracts for Materials, Supplies, and Construction, Repair, Maintenance and Operation of Works or Improvements**

Sec. 13. All contracts for materials, supplies, or for the construction or repair of works or improvements which has a contract price exceeding five thousand dollars (\$5,000) shall be let to the lowest responsible bidder after notice inviting bids is published in the district pursuant to Section 6061 of the Government Code, the publication to be not less than 10 days prior to the date set for the opening of bids. Such contracts may be let by the board without public bidding where (1) they are entered into with any other public agency for governmental entity, (2) the contract price does not exceed five thousand dollars (\$5,000), or (3) an emergency threatening the public health, safety, and welfare has been declared by the board. Contracts for the maintenance or operation of district works or improvements may be negotiated when determined by board to be in the public interest. *(Added by Stats.1982, c. 661, p. 2685, § 12.)*

## SECTION 73-14, CALIFORNIA WATER CODE APPENDIX

### **§ 73-14. Borrowing; Ordinary Expenses; Payment of Employees; Emergency Expenses for Improvements**

Sec. 14. (a) The district may borrow money and incur indebtedness for its ordinary expenses and to pay engineers, attorneys, and other employees of the district. Each such borrowing shall be authorized by a resolution of the board of directors and shall be evidenced by a note or notes. The total amount so borrowed shall not at any time exceed the amount which could be raised by a ten-cent (\$0.10) tax levy upon all taxable real property which is subject to such levy in the district as shown by the last equalized assessment roll. If the borrowing comes before an assessment roll for the district has been equalized, the county auditor shall estimate the assessed value of the real property which is subject to such levy in the district and furnish his certificate of such estimate to the board of directors of the district. The board of directors may borrow an amount not to exceed the sum which could be raised by a ten-cent (\$0.10) levy upon such estimated value of real property which is subject to such levy. For the purpose of such borrowing the certificate of valuation of the county auditor shall be final and conclusive. Any moneys so borrowed with interest thereon shall be repaid from the proceeds of the next succeeding tax levy or earlier if funds become available therefore.

(b) The district may borrow money and incur indebtedness to construct, repair, operate, or maintain improvements required as a result of declared emergencies or disasters. Each such borrowing shall be authorized by resolution of the board of directors. The total amount so borrowed shall not exceed the sum which could be raised by a ten-cent (\$0.10) tax levy upon the taxable real property of the district. If such borrowed funds are provided through a designated emergency or disaster program, the district may repay such loan in accordance with the provisions of such program. The district may also borrow from the State of California or the United States moneys provided by such units of government for the performance of local responsibilities required in conjunction with state or federal flood control, drainage, or water conservation, projects. Where no repayment term is specified in the special loan programs relating to declared emergencies, disasters, or state or federal programs, the loans shall be repaid within a period not to exceed 40 years. *(Added by Stats.1982, c. 661, p. 2686, § 14.)*

## SECTION 73-15, CALIFORNIA WATER CODE APPENDIX

### § 73-15. Bonds; Authorization; Election Call

Sec. 15. The district may incur a bonded indebtedness for the acquisition and construction of flood control works, including the acquisition of easements and property, to provide for (a) the control of flood, storm, or other waste waters of or within the district, including waters which arise outside the district and which flow or drain into or through the district; (b) the protection from damage by flood, storm, or waste waters of highways and private and public property within the district; and (c) the conservation of flood, storm, waste, and other surface waters for beneficial and useful purposes. The election therefore shall be called by resolution, and the resolution shall state the amount of principal of the indebtedness proposed to be incurred for these purposes, the maximum rate of interest to be paid on the indebtedness which shall not exceed the maximum legal rate at the time of such election, the manner of holding such election of voting for or against the incurring of such indebtedness. *(Added by Stats. 1982, c. 661, p. 2686, § 16.)*

## SECTION 73-16, CALIFORNIA WATER CODE APPENDIX

### **§ 73-16. Bond Election; Publication of Resolution; Vote Required**

Sec. 16. The resolution shall be published in such district pursuant to Section 6066 of the Government Code. No other notice of such election need be given. It shall require the votes of a majority of all the voters voting on the proposition to authorize the issuance of the bonds. (*Stats. 1955, c. 503, p. 979, §16, as amended Stats. 1957, c. 357, p. 1160, § 306.*)

## SECTION 73-17, CALIFORNIA WATER CODE APPENDIX

### § 73-17. Bonds; Form and Contents

Sec. 17. Subject to the provisions of this act the board of directors shall prescribe the form of the bonds to be issued by the district, and of the interest coupons to be attached thereto. The board shall fix the date of the bonds, and may in its discretion divide the aggregate principal amount of any authorized issue into two or more series and fix different dates for each separate series. In the event any authorized issue is divided into two or more series the bonds of each series may be made payable at such time or times as may be fixed by the board separate and distinct from the time or times of payment of bonds of any other series of the same issue; provided, that the maturity or maturities of each separate series shall in each case comply with the provisions of this act. No bond shall run more than 40 years from the date of its issue. (*Stats.1955, c. 503, p. 979, § 17, as amended Stats.1959, c. 83, p. 1940, § 1.*)

## SECTION 73-18, CALIFORNIA WATER CODE APPENDIX

### § 73-18. Bonds; Denominations; Signatures

Sec. 18. The bonds shall be issued in such denominations as the board may determine, except that no bonds shall be of a smaller denomination than one thousand dollars (\$1,000) nor a greater denomination than one hundred thousand dollars (\$100,000), and shall be payable on the date and at the place or places stated in such bonds, and with interest at the rate specified in the bonds, payable annually for the first year and thereafter semiannually. Said bonds shall be signed by the chairman of the board, by his printed, lithographed or engraved facsimile signature, or may be so signed by such other officer as the board shall by resolution authorize and designate for that purpose, and also signed by the secretary of said board. The coupons of said bonds shall be numbered consecutively and signed by the secretary by his printed, lithographed or engraved facsimile signature. In case any of such officers whose signatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser such signature shall nevertheless be valid for all purposes the same as if they had remained in office until the delivery of the bonds. (*Stats. 1955, c. 503, p. 979, § 18.*)

## SECTION 73-19, CALIFORNIA WATER CODE APPENDIX

### § 73-19. Callable Bonds

Sec. 19. The board may in its discretion provide that all or any part of the bonds issued may at the option of the board be called and redeemed prior to maturity, with such premiums, if any, as said board in the resolution providing for the issuance thereof may determine. In the event any bond is redeemable prior to its maturity a statement substantially to that effect shall be contained in the bond. (*Stats. 1955, c. 503, p. 980, § 19.*)

## SECTION 73-19.5, CALIFORNIA WATER CODE APPENDIX

### **§ 73-19.5 Refunding Bonds; Issuance without Election; Purpose; Authorization; Sale; Disposition of Proceeds; Tax for Payment of Bonds**

Sec. 19.5. The board, in the manner provided in this section, may incur a bonded indebtedness by the issuance of refunding bonds without calling and holding an election and without the authorization of the voters of said district. Sections 15 and 16 shall not be applicable to any bonded indebtedness evidenced by refunding bonds. Refunding bonds shall be issued only for the purpose of paying the principal of and premium on any outstanding bonds of the district which by their terms are, at the time of issuance of refunding bonds, subject to call and redemption prior to maturity. Refunding bonds shall not be issued unless the total amount of interest payable on the issue of refunding bonds from the date thereof to their respective maturity dates plus the total amount of premiums payable upon the call and redemption of the outstanding bonds to be called and redeemed with the proceeds of the sale of refunding bonds is less than the total amount of interest payable on the bonds to be called and redeemed from the date of redemption thereof to their respective maturity dates. The final maturity date of the refunding bonds to be issued shall not be later than the final maturity date of the bonds to be called and redeemed. The aggregate principal amount of the refunding bonds to be issued shall not exceed the aggregate principal amount of the bonds to be called and redeemed plus the amount of the premiums payable upon the call and redemption thereof. All interest payable upon the call and redemption of the bonds to be called and redeemed shall be paid from available funds of the district other than the proceeds of the sale of refunding bonds.

Each issue of refunding bonds shall be authorized by a resolution of the board and shall be sold pursuant to the provisions and subject to the limitations of Section 20. The proceeds of the sale of each issue of refunding bonds shall be placed in the Treasury of the County of Fresno to the credit of the district. All premiums and accrued interest received upon such sale shall be placed in the fund to be used for the payment of principal of and interest on the refunding bonds, and the remainder of the proceeds of the sale of the refunding bonds shall be applied to the extent required to pay the principal of and premium on the outstanding bonds of the district which were called and redeemed upon the issuance of the refunding bonds. Any surplus remaining after the redemption of the outstanding bonds shall be deposited in the fund to be used for the payment of the principal of and interest on the refunding bonds and used only for that purpose.

When any refunding bonds shall have been issued, taxes shall be levied and collected to pay the principal of and interest on the refunding bonds in the manner provided in Section 21. All of the provisions of Section 21 are applicable to refunding bonds to the same extent as to the outstanding bonds called and redeemed by the refunding bonds. (*Added Stats. 1959, c. 82, p. 1939, § 1.*)

## SECTION 73-20, CALIFORNIA WATER CODE APPENDIX

### § 73-20. Bonds; Issuance and Sale

Sec. 20. The bonds may be issued and sold as the board determines, but for not less than par. Before selling the bonds, or any part thereof, the board shall give notice inviting sealed bids in such manner as the board may prescribe. If satisfactory bids are received the bonds shall be sold to the highest responsible bidder. If no bids are received, or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale. The proceeds of the sale shall be placed in the treasury of the County of Fresno to the credit of said district. All premiums and accrued interest received shall be placed in the fund to be used for the payment of principal of and interest on the bonds, and the remainder of the proceeds of the bonds shall be placed to the credit of the construction fund of the district and applied exclusively to the purposes recited in the resolution calling the election; provided, however, that when said purposes have been accomplished any moneys remaining in such construction fund shall be transferred to the fund to be used for the payment of principal of and interest on the bonds. When such purposes have been accomplished and all principal of and interest on the bonds have been paid any balance of money then remaining shall be transferred to the general fund of the district. (*Stats. 1955, c. 503, p. 980, § 20.*)

## SECTION 73-21, CALIFORNIA WATER CODE APPENDIX

### § 73-21. Bonds; Tax for Principal and Interest Payments

Sec. 21. The board of supervisors shall at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid or until there shall be a sum in the treasury of the county to the credit of said district and set apart for that purpose sufficient to meet all sums coming due for principal and interest on said bonds, an assessment tax upon all taxable real property in the district sufficient to pay the interest on such bonds as the same becomes due, and also such part of the principal thereof as shall become due before the proceeds of an assessment tax levied at the time for making the next general tax levy can be made available for the payment of such principal. The assessment taxes herein required to be levied and collected shall be in addition to all other assessment taxes levied for district purposes and shall be levied and collected at the time and in the same manner as other district assessment taxes are levied and collected and be used for no other purpose than the payment of said bonds and accruing interest thereon. (*Stats. 1955, c. 503, p. 980, § 21.*)

## SECTION 73-22, CALIFORNIA WATER CODE APPENDIX

### §73-22. Estimate of Money Needed

Sec. 22. The board of directors shall, not later than the beginning of each fiscal year, prepare an estimate in writing of the amount of money needed for the objects and purposes of the district for that fiscal year. The estimate shall include the estimated amount required to pay the expenses of the district, the cost of maintenance and operation of any works maintained or operated by the district or under its authority, the amount of any indebtedness (other than bonded debt) of the district currently due or to become due in such fiscal year with interest, if any, payable thereon, the amount deemed necessary by the board of directors for a reserve fund to meet the expenses of the district during the first six months of the next subsequent fiscal year, and the estimated amount necessary for the payment of the costs of any action or proceeding which may be taken by the district, including the cost of employment of attorneys and engineers. The estimate may for convenience be called the "annual budget". A copy of the estimate shall be filed with the Board of Supervisors of the County of Fresno and the auditor thereof not later than the tenth day of July of such fiscal year. There shall be added to the estimate the amount required to provide for the payment of principal and interest of outstanding bonds of the district and the payment of principal and interest of bonds authorized but not sold but which the board of directors believes will be sold during the first six months of such fiscal year. *(Amended by Stats. 1985, c. 1229, § 6, eff. Sept. 30, 1985.)*

## SECTION 73-22(a), CALIFORNIA WATER CODE APPENDIX

### § 73-22(a). Reduction of Assessment in Drainage Area or Zone

Sec. 22(a). If the board of directors determines that the money needed by the district for acquisition and construction of land and improvements has been reduced by reason of the completion of works of improvement in a drainage area or zone with defined boundaries, the board may proportionately reduce the amount to be assessed upon the taxable real property in that drainage area or zone for the fiscal year, so that the property owners in the drainage area or zone will not be assessed for costs of acquisitions and improvements outside of the drainage area or zone not of benefit to the property owners, and the board of directors may request that the board of supervisors determine the rate of assessment tax separately for the drainage area or zone. (*Amended by Stats.1982, c. 661, p. 2687, § 17; Stats.1985, c. 1229, § 7, eff. Sept. 30, 1985.*)

## SECTION 73-23, CALIFORNIA WATER CODE APPENDIX

### § 73-23. Annual Tax Levy

Sec. 23. The board of supervisors shall annually, not later than the first Monday in September, levy an assessment tax upon the taxable real property in the district sufficient to carry out any of the objects and purposes of this act, all of which are of benefit to those lands and the improvements thereon, and to raise the amount stated in the annual budget, and also an assessment tax sufficient to raise the amount required for payment of principal and interest of bonds of the district. The board of supervisors shall determine the rate of each such assessment tax in the district and separately in any drainage area or zone with defined boundaries if so requested by the board of directors of the district pursuant to Section 22(a) by deducting 10 percent for the anticipated delinquencies from the total assessed value of the taxable real property in the district as it appears on any assessment roll or system of the county maintained for the purpose of levying ad valorem taxes or ad valorem assessments and then dividing the sum to be raised by the remainder of such total assessed value in the district and separately in any drainage area or zone with defined boundaries which is the subject of a request pursuant to Section 22(a); provided, that if a fraction of a cent occurs on a valuation of one hundred dollars (\$100) it shall be taken as a full cent. The assessment tax levied during any year for all purposes other than bond principal and interest shall not exceed twenty cents (\$0.20) on each one hundred dollars (\$100) of the assessed value of the taxable real property in the district according to the last equalized county assessment roll; provided, that such maximum permissible rate of assessment tax may be increased by the qualified voters of the district. The assessment tax shall be extended and collected in the same manner and by the same officers and with the same penalties and interest as general county taxes, and when collected shall be paid into the treasury of the county and credited to the district. *(Amended by Stats. 1985, c. 1229, § 8, eff. Sept. 30, 1985.)*

## SECTION 73-23.5, CALIFORNIA WATER CODE APPENDIX

### § 73-23.5 Annual Tax Levy; Alternative Basis

Sec. 23.5. (a) The Legislature hereby finds and declares that a county may face substantial expense in maintaining a roll or system that reflects both current values of property for the purpose of ad valorem assessments as provided by this act and the property values for general taxation mandated by Article XIII A of the California Constitution. The Legislature further finds and declares that a fair and proper assessment for district objects and purposes may be imposed on the alternative basis of the use to which the benefited land may be put and the services and benefits provided.

(b) The board of supervisors of the county and the board of directors of the district may evaluate the costs of maintaining a system to determine benefits according to assessed valuation of land and improvements thereon pursuant to Section 23 and the cost of determining benefits pursuant to use and services and benefits provided pursuant to this section. Pursuant to that determination, the board of supervisors and the board of directors may elect to impose an assessment as set forth in Section 23 or this section sufficient to raise the amount or amounts represented annually by the district.

(c) The assessment authorized to be imposed on each parcel under this section shall be based upon the parcel's proportionate benefit, taking into account the zone in which it is located, its size, and its capacity for being put to use, with respect to all other parcels in the district. The aggregate of all the assessments shall not exceed the maximum limit set forth in Section 23, except as that limit is increased by the qualified voters of the district.

(d) Prior to July 10 of each year, the district shall transmit to the board of supervisors the zones of benefit and land use categories required to impose the assessment authorized by this section.

(e) Prior to March 1 of any year, landowners in the district may petition the board of directors to review, or the board of directors may elect to review on its own motion, the zones of benefit or land use categories determined by the district and submitted to the board of supervisors pursuant to this section. The petition shall be signed by at least 1 percent of the landowners within the district. The board of directors shall set a time and place for hearing upon the petition and shall give notice of the hearing by publishing the notice twice in a publication of general circulation at least 20 days prior to the hearing. The board of directors may, by resolution at the conclusion of the hearing, modify the zones of benefit or the land use categories as, in its judgment, is required and that modification shall become effective the next tax year, but in no event later than the next tax year following the next March 1.

(f) If the board of supervisors of the county and the board of directors of the district elect to use the alternative assessment basis provided in this section, the county and the district may recover their reasonable costs of preparing, imposing, and collecting the assessments. The district shall pay to the county from the proceeds of the assessments the county's portion of the costs. *(Added by Stats.1985, c. 1229, § 9, eff. Sept. 30, 1985. Amended by Stats.1993, c. 290 (A.B.1976), § 1, eff. Aug. 2, 1993; Stats.1994, c. 146 (A.B. 3601), § 233.)*

## SECTION 73-24, CALIFORNIA WATER CODE APPENDIX

### § 73-24      **Construction of Works; Special Assessment; Applicability of Improvement Acts; Definitions; Exemption from Special Assessment, Investigation, Limitation and Majority Protest Act**

Sec. 24. The board may order the construction of flood control works, storm drains and appurtenances and appurtenant work in the whole or any portion of any of the streets, highways or public places (including state highways, after obtaining a permit therefore pursuant to Article 2 (commencing with Section 670), Chapter 3, Division 1 of the Streets and Highways Code) within the district or in any property or rights-of-way owned by the district, and the cost thereof may be assessed upon the lands benefited, all in the manner provided in the Improvement Act of 1911 (commencing with Section 5000 of the Streets and Highways Code), the Municipal Improvement Act of 1913 (commencing with Section 10000 of the Streets and Highways Code), and the Improvement Bond Act of 1915 (commencing with Section 8500 of the Streets and Highways Code), all of which said acts are applicable to this district. In proceedings initiated under any of the foregoing acts, the district may reimburse itself for the cost of any acquisition of lands or improvements paid for from its general fund. Such reimbursements shall be charged as an incidental expense under the particular improvement act under which proceedings are had. The powers and duties conferred by such acts upon legislative bodies, officers and agents of cities or counties shall be exercised by the respective board, officers and agents of the district. In the application of such acts to proceedings under this act the terms used in said acts shall have the following meanings:

- (a) "Legislative body", "city council" or "council" shall mean "board of directors of the district";
- (b) "City", "municipality" or "county" shall mean "district";
- (c) "clerk" and "city clerk" mean "secretary of the district";
- (d) "Superintendent of streets", "street superintendent" and "city engineer" mean the "engineer of the district" or any other person appointed to perform such duties;
- (e) "Tax collector" means "county tax collector";
- (f) "Treasurer" and "city treasurer" mean "county treasurer as ex officio treasurer of the district".

Any assessment levied by the district under this section shall be recorded in the office of the Director of Public Works of the County of Fresno.

The Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (commencing with Section 2800 of the Streets and Highways Code) shall not apply to proceedings taken under the authority of this section. (*Stats. 1955, c. 503, p. 982, § 24, as amended Stats. 1961, c. 52, p. 990, § 1, effective March 30, 1961.*)

## SECTION 73-25, CALIFORNIA WATER CODE APPENDIX

### § 73-25. Additional Bonds

Sec. 25. After the first issue of bonds of the district additional bonds may be issued as authorized by the voters of the district. Whenever the board of directors shall by resolution determine that the public interest or necessity demands the issuance by said district of additional bonds said board may submit the question of issuing such bonds to the qualified voters of said district in the manner provided in this act. Such bonds, if authorized, shall be issued and sold in the manner provided in this act. Should any proposition of issuing bonds submitted at any election under this act fail to receive the requisite number of votes of the qualified voters voting at such election to incur the indebtedness for the purposes specified, the board of directors of said district shall have no power and authority until the expiration of six months after such election to call or order another election for incurring indebtedness and issuing bonds under this act. (*Stats. 1955, c. 503, p. 983, § 25.*)

## SECTION 73-26, CALIFORNIA WATER CODE APPENDIX

### § 73-26. Eminent Domain

Sec. 26. The power of eminent domain vested in the board of directors of the district shall be exercised pursuant to the California Eminent Domain Law (commencing with Section 1230.010 of the Code of Civil Procedure). (*Added by Stats.1982, c. 661, p. 2687, § 19.*)

## SECTION 73-27, CALIFORNIA WATER CODE APPENDIX

### § 73-27. Right of Way Upon Public Lands

Sec. 27. There is hereby granted to the district the right of way for the location, construction and maintenance of flood control channels, ditches, waterways, conduits, canals, storm dikes, embankments, and protective works in, over and across public lands of the State of California, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of such works and adjuncts or for the protection thereof. Whenever any selection of a right of way for such works or adjuncts thereto is made by the district the board thereof must transmit to the State Lands Commission, the Controller of the State and the recorder of the county in which the selected lands are situated, a plat of the lands so selected, giving the extent thereof and the uses for which the same is claimed or desired, duly verified to be correct. If the State Lands Commission shall approve the selections so made it shall endorse its approval upon the plat and issue to the district a permit to use such right of way and lands. Whenever any of the proposed improvements are to be located in state highways a permit shall be obtained therefore pursuant to Article 2, Chapter 3, Division 1 of the Streets and Highways Code.<sup>1</sup> Said district is also granted such right as the State of California may have to use any watercourse within or without the boundaries of the district for the purposes of said district. (*Stats. 1955, c. 503, p. 983, § 27.*)

## SECTION 73-28, CALIFORNIA WATER CODE APPENDIX

### § 73-28. Definitions

Sec. 28. The words hereinafter defined shall be given the meaning stated in this section, unless the context of the word as used at a particular place in the act indicates a different meaning at such place.

1. As used in this act,

- (a) "District" means "Fresno Metropolitan Flood Control District";
- (b) "Board" means "board of directors of that district";
- (c) "County" means "County of Fresno";
- (d) "City" means "City of Fresno" when the land and works are within the City of Fresno and the "City of Clovis" when the land or works are within that city;
- (e) "Irrigation district" means "Fresno Irrigation District";
- (f) "Board of supervisors" means "Board of Supervisors of the County of Fresno".

2. As used in this act, the words "flood control works" include dams, reservoirs, canals, ditches, drains, the improvement of natural or artificial watercourses, and the acquisition and construction of any and all improvements appurtenant to or necessary for any flood control, drainage, or water conservation work or works, and include the acquisition of any land, easements, property, or rights necessary for the flood control, drainage, or water conservation works.

3. As used in this act, the term "public official" means all elected officials and officers, including employees, of the City of Fresno, the City of Clovis, and the County of Fresno.

4. Wherever in this act the term "assessment tax" is used, the terms shall not be deemed or construed as referring to a tax in the technical sense of the term, but shall be deemed to refer to assessments based on benefits. (*Amended by Stats.1982, c. 661, p. 2687, § 20; Stats.1985, c. 1229, § 10, eff. Sept. 30, 1985.*)

## SECTION 73-29, CALIFORNIA WATER CODE APPENDIX

### § 73-29. Liberal Construction

Sec. 29. This act and every part thereof shall be liberally construed to promote the objects and purposes thereof and to carry out its intents and purposes. (*Stats. 1955, c. 503, p. 984, § 29.*)

## SECTION 73-30, CALIFORNIA WATER CODE APPENDIX

### § 73-30. Partial Invalidity

Sec. 30. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. (*Stats. 1955, c. 503, p. 984, § 30.*)

## SECTION 73-31, CALIFORNIA WATER CODE APPENDIX

### § 73-31. Annexation and Exclusion of Land; Initiation of Proceedings

Sec. 31. Any parcel of land may be annexed to the district, when such land shall have been found by the board of directors to benefit, and any parcel of land may be excluded from the district, when such land shall have been found by the board of directors not to benefit, pursuant to this section.

The board of directors of the district may initiate annexation or exclusion proceedings by the adoption of a resolution of intention, or such action may be commenced by the filing of a petition. (*Added by Stats.1982, c. 661, p. 2688, § 22.*)

## SECTION 73-32, CALIFORNIA WATER CODE APPENDIX

### § 73-32. Filing Petition; Owner Defined

Sec. 32. A petition for annexation or exclusion shall be filed by not less than 25 percent in number of the owners of land owning not less than 25 percent of the total surface acreage proposed to be annexed or excluded, and shall be addressed to and filed with the board.

“Owner” shall be defined as a holder of title or holder of a portion of title identified on the last equalized assessment roll of the County of Fresno. In all matters in this section, the last equalized assessment roll of the County of Fresno shall be prima facie evidence as to the ownership of real property, the names and number of persons who are the holders of title or portion of title. Executors, administrators, trustees or guardians may sign for a named holder of title when such signature is supported by written authorization to so represent the name holder of title. (*Amended by Stats. 1982, c. 661, p. 2688, § 23.*)

## SECTION 73-33, CALIFORNIA WATER CODE APPENDIX

### § 73-33. Contents of Petition

Sec. 33. The petition shall contain:

1. The reason for annexation or exclusion of the land
2. A description of the boundaries of the land, and
3. The assents of petitioners to the annexation or exclusion.

*(Added Stats. 1957, c. 830, p. 2052, § 3.)*

## SECTION 73-34, CALIFORNIA WATER CODE APPENDIX

### § 73-34. Time and Place for Hearing; Notice; Publication

Sec. 34. Upon filing of the petition, or upon initiation of annexation or exclusion proceedings by the board, the board shall fix a time and place for a hearing, which hearing shall be not less than 30 days subsequent to such filing or to the adoption of such resolution of intention, and shall cause notice of such filing, or adoption of resolution of intention, and of the time and place of the hearing, to be published by publication of notice thereof not less than once a week for three weeks in a newspaper of general circulation, printed and published within the district.

At least 20 days before the date set for the hearing, the secretary of the board of directors shall mail said notice, postage prepaid, to all persons owning real property within the boundaries of the land proposed to be annexed or excluded whose names and addresses appear on the last equalized assessment roll or who are known to the secretary. The failure of the secretary to mail the notice to any property owner, or the failure of any property owner to receive the notice, shall not affect the validity of the annexation or exclusion proceeding. (*Added Stats.1957, c. 830, p. 2052, § 4, as amended Stats.1967, c. 575, p. C, § 3.*)

## SECTION 73-35, CALIFORNIA WATER CODE APPENDIX

### § 73-35. Contents of Notice

Sec. 35. The notice shall state:

1. The date on which the petition was filed, or the date of adoption of the resolution of intention;
2. The petitioners' names, if any;
3. The location and boundaries of land described in the petition or resolution of intention;
4. The prayer of the petition, if any;
5. The time and place fixed for hearing the petition;
6. If determined by the board of directors, a statement of the payment to be required pursuant to Section 44;
7. That all persons interested in or affected by such change in the district boundaries may appear and show cause why the change should not be made;
8. That each holder of title or each joint holder of title may submit a signed written protest identifying the name of the protesting holder of title, the street address or other description sufficient to identify the protesting owner's property on the last equalized assessment roll, and that the signed written protest of any joint holder of title shall constitute a protest of an owner of land, and that executors, administrators, trustees, and guardians may sign such protest for a holder or joint holder of title when such signature is accompanied by written authorization to so represent the named holder of title;
9. The name and telephone number of the district representative from whom additional information regarding the annexation can be obtained; and
10. The date by which written protests are to have been received by the secretary of the district.  
(Amended by Stats.1982, c. 661, p. 2688, § 24.)

## SECTION 73-36, CALIFORNIA WATER CODE APPENDIX

### § 73-36. Hearing Evidence

Sec. 36. At the hearing, the board shall hear all relevant evidence for and against the petition or resolution of intention. (*Added Stats. 1957, c. 830, p. 2053, § 6.*)

## SECTION 73-37, CALIFORNIA WATER CODE APPENDIX

### **§ 73-37. Failure to Show Cause as Assent to Boundary Changes**

Sec. 37. Failure to show cause by any person interested in or affected by the change is deemed his assent to any change the board makes in the district boundaries changed. (*Added Stats.1957, c. 830, p. 2053, § 7.*)

## SECTION 73-38, CALIFORNIA WATER CODE APPENDIX

### **§ 73-38. Resolution of Annexation or Exclusion; Declaration of Altered Boundaries**

Sec. 38. If the board deems the annexation or exclusion of all or part of the land for the best interest of the district and if protests are not received from more than 50 percent in number of the owners of the land to be annexed or excluded, the board shall by resolution annex or exclude all or part of the land described in the petition and shall declare the district boundaries changed. *(Amended by Stats. 1982, c. 661, p. 2689, § 25.)*

## SECTION 73-39, CALIFORNIA WATER CODE APPENDIX

### **§ 73-39. Protest; Form and Requisites; Calling Election; Termination of Proceedings**

Sec. 39. If a majority of the owners of lands within the territory proposed to be annexed or excluded protest, in writing, such annexation or exclusion to the board, the board shall (1) call, an election within the area proposed to be annexed or excluded to decide whether the proposed annexation or exclusion shall occur, or (2) terminate the annexation or exclusion proceedings. (*Amended by Stats. 1982, c. 661, p. 2689, § 26.*)

## SECTION 73-40, CALIFORNIA WATER CODE APPENDIX

### § 73-40. Resolution Calling Election; Form and Contents; Notice; Publication

Sec. 40. Upon determining that an election shall be called, the board shall adopt a resolution calling such election, which resolution shall describe the boundaries of the land to be annexed or excluded, the date of the election, whether the election shall be held at the polls or by mailed ballot, and if at the polls the hours which the polls shall be kept open, which need not exceed seven consecutive hours, the polling place, and shall state the proposition:

“Shall the territory described in the resolution adopted by the board of directors on \_\_\_\_\_, 19/20\_\_\_, be (annexed to) (excluded from) the Fresno Metropolitan Flood Control District?”

Notice of election shall be given by publishing the resolution at least once a week for two consecutive weeks in a newspaper of general circulation, printed and circulated within the district, in which case no other notice of election need be given, or notice may be given as otherwise provided by law. (*Amended by Stats. 1982, c. 661, p. 2689, § 27.*)

## SECTION 73-41, CALIFORNIA WATER CODE APPENDIX

### **§ 73-41. Majority Vote; Resolution Declaring Annexation or Exclusion; Description of Altered Boundaries**

Sec. 41. If a majority of the votes cast at the election within the area proposed to be annexed or excluded favors such annexation or exclusion, the board shall by resolution declare the territory annexed or excluded to describe the altered district boundaries. (*Added Stats. 1957, c. 830, p. 2053, § 11.*)

## SECTION 73-42, CALIFORNIA WATER CODE APPENDIX

### § 73-42. Entry of Resolution in Minutes; Filing Certified Copies

Sec. 42. The resolution declaring the changed boundaries shall be entered in the minutes of the board. A certified copy of the resolution shall be filed in the Office of the County Recorder of the County of Fresno, with the Secretary of State of the State of California, with the Assessor of the County of Fresno, and with the State Board of Equalization. (*Added Stats. 1957, c. 830, p. 2054, § 12.*)

## SECTION 73-43, CALIFORNIA WATER CODE APPENDIX

### **§ 73-43. Payment of Debts and Obligations as Condition of Exclusion; Further Liability**

Sec. 43. Exclusion of territory pursuant to board resolution, whether or not an election was held, shall not become effective until all debts and obligations existing pursuant to this act, including loans from the general fund of the district, have been fully paid. However, subsequent to the adoption of such resolution of exclusion, the territory shall not be subjected to any further debts or obligations pursuant to this act. (*Amended by Stats.1982, c. 661, p. 2690, § 28.*)

## SECTION 73-44, CALIFORNIA WATER CODE APPENDIX

### **§ 73-44. Payment by Owners of Land as Condition Precedent to Annexation**

Sec. 44. As a condition precedent to annexation the board may require that the owners of annexed land shall pay a sum equal to the amount of the taxes or assessments which the owners or their grantors would have been required to pay if the annexed land had been included in the district when it was formed. (*Added Stats.1957, c. 830, p. 2054, § 14.*)

## SECTION 73-45, CALIFORNIA WATER CODE APPENDIX

### § 73-45. Effect of Change of Boundaries

Sec. 45. No change in the boundaries of the district shall impair or affect its organization or its rights in or to property or any of its rights or privileges of whatsoever kind or nature, or shall affect, impair or discharge any contract, obligation, lien or charge for or upon any lands in the district or for which the district was or might become liable or chargeable had such changes of boundaries not been made. *(Added Stats.1957, c. 830, p. 2054, § 15.)*

## SECTION 73-46, CALIFORNIA WATER CODE APPENDIX

### § 73-46. Drainage Areas and Zones

Sec. 46. **(a) Division of district.** The district may be divided into as many local drainage areas or zones as may be deemed convenient for the objects and purposes of the district, and each local drainage area or zone shall be composed of and include all of the lands which in the opinion of the board of directors will be benefited in like manner. Each local drainage area or zone shall be designated on a map or plat of the district filed in the office of the board of directors, and the designation shall show the separate boundaries of each local drainage area or zone and a statement of the total cost or revenue or percentage thereof to be raised from each area or zone.

**(b) Modification of zones.** If, in the opinion of the board of directors, modification of the zones is appropriate in order to better reflect the benefits as then received by lands within the district from the maintenance, operations, extension, or repair of works or improvements of the district, the district shall prepare a new map showing the proposed new zone boundaries with a statement of the new total cost or revenue or percentage to be raised from each zone. Upon the filing of the map showing proposed new zone boundaries, the board of directors shall give notice to all persons interested in the district by publication in a newspaper of general circulation published in the district, once a week for two successive weeks, which notice shall designate the time and place of hearing by the board of directors, at which time and place any person interested in the district may appear and object to the zones into which the district is divided, or the total cost or revenue or percentages to be raised from each of the zones. All objections shall be in writing, signed by the person or persons making the objection, and filed with the board of directors on or before the date fixed for the hearing. Upon hearing, the board of directors may change or modify any of the zones or the percentages of the cost or revenue to be raised therefrom. The hearing may be continued from time to time by the board of directors by an order entered on its minutes. The location and extent of the zones within the district and the total cost or revenue or percentages to be raised therefrom shall be finally established and determined by the board of directors and shall prevail for all purposes until any obligation of the district incurred on behalf of the zones shall have been fully discharged and until further modified pursuant to this section. The findings and determinations of the board of directors as to the extent and boundaries of the zones and the percentages of the cost or revenue to be raised therefrom shall be final and conclusive.

**(c) Institution of projects.** The board may institute projects for single local drainage areas and zones and joint projects for two or more local areas or zones, for the financing, constructing, maintaining, operating, extending, repairing, or otherwise improving any work or improvement authorized by this act and of common benefit to the area or zone or participating areas and zones.

**(d) Tax or assessment levies; bond authorization.** The board may levy assessments, assessment taxes, benefit assessments, or taxes, as provided in this act, or incur bonded indebtedness to pay the cost of any work or improvement or the operating, maintaining, repairing, or extending any work or improvement within those local drainage areas or zones.

## SECTION 73-46, CALIFORNIA WATER CODE APPENDIX

### § 73-46. Drainage Areas and Zones (Continued)

**(e) Authority to proceed with project; resolution; notice; hearing.** For the purpose of acquiring authority to proceed with a project or projects within and for the benefit of any local drainage areas or zones and to be financed under the bonding authority of this section, the board shall adopt a resolution specifying its intention to undertake such a project. The resolution will include engineering estimates of costs to be borne by the participating local drainage areas or zones, and shall fix a time and place for public hearing and shall refer to a map or maps showing project construction and location. Notice of the hearing shall be given by publication in a newspaper of general circulation within the district pursuant to Section 6056 of the Government Code. The notice shall designate a public place within the district where a copy of the maps may be seen during the two-week period prior to the hearing.

At the time and place fixed for the hearing, or the continued portion thereof, the board shall consider all oral and written testimony. Upon the conclusion of the hearing the board may abandon the proposed project or proceed, unless, prior to the time set for receiving protests, a written protest against the project signed by holders of title to real property or assessable interests therein representing more than a majority of all holders of title within the participating drainage areas or zones is filed with the board and not withdrawn. In that event the proceedings shall be terminated and the project or projects shall not be reinstated in the same drainage areas or zones for a period of six months.

In all matters referred to in this subdivision, the last equalized assessment roll of the County of Fresno shall be prima facie evidence as to the ownership of real property and the names and numbers of the holders of title. The board shall be entitled to inquire and take evidence for purposes of identifying any person claiming the right to file a written protest. Unless satisfactory evidence is furnished, the right to sign and file a protest may be denied.

**(f) Bond authorization procedure.** The procedure for authorizing bonds shall be as follows:

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

## SECTION 73-46, CALIFORNIA WATER CODE APPENDIX

### § 73-46. Drainage Areas and Zones (Continued)

(2) After the filing for record of the resolution specified in paragraph (1), the board may call a special bond election in the local drainage area or zone or participating local drainage areas or zones at which shall be submitted to the qualified electors of the local drainage area or zone or participating local drainage areas or zones the question whether or not bonds shall be issued in the amount or amounts determined in the resolution and for the purpose or purposes therein stated. The bonds and the interest thereon shall be paid from revenue derived from annual assessment taxes levied as provided in this act.

(3) The board shall call such special bond election by resolution and submit to the qualified electors of the local drainage area or zone or participating local drainage areas or zones the proposition of incurring a bonded debt in the local drainage area or zone or participating local drainage areas or zones in the amount and for the purposes stated in the resolution and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief, general description of such objects and purposes, and refer to the recorded copy of the resolution specified in paragraph (1), and on file for particulars; and the resolution shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefore, and the maximum rate of interest to be paid on that indebtedness, and shall fix the date on which such special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on such indebtedness shall not exceed the maximum rate permitted by law. For the purposes of that election, the board shall provide in the resolution for such election by mailed ballot or shall in the resolution establish special bond election precincts within the boundaries of each local drainage area or zone and participating local drainage area or zone and may form election precincts by consolidating the precincts established for general elections in the district to a number not exceeding six general precincts for each such special bond election precinct, and shall designate a polling place and appoint one inspector, one judge and one clerk for each of such special bond election precincts.

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

## SECTION 73-46, CALIFORNIA WATER CODE APPENDIX

### § 73-46. Drainage Areas and Zones (Continued)

The resolution calling for such special bond election shall, prior to the date set for such election, be published in a newspaper of general circulation circulated in each local drainage area or zone and participating local drainage area or zone affected for six consecutive times, if published in a daily newspaper of general circulation, or two times, if published in a weekly newspaper of general circulation. The last publication of such resolution shall be at least 14 days before the election, and if there be no such newspaper, then such resolution shall be posted in five public places, designated by the board, in each local drainage area or zone and participating local drainage area or zone for at least 30 days before the date fixed for such election. No other notice of such election need be given nor polling place cards be issued.

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

**(g) Form, contents, denomination, etc., of bonds.** The board shall, subject to the provisions of this act, prescribe by resolution the form of the bonds, which shall include a designation of the local drainage area or zone or participating local drainage area or zone affected, and of the interest coupons attached thereto. The bonds shall be payable, annually or semiannually at the discretion of the board, each and every year on a day and date, and at a place, to be fixed by the board and designated in such bonds, together with the interest on all sums unpaid on such date until the whole of the indebtedness shall have been paid.

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. The board may fix a date, not more than two years from the date of issuance for the earliest maturity of each issue or series of bonds. The final maturity date shall not exceed 40 years from the time of incurring the indebtedness evidenced by each issue or series.

## SECTION 73-46, CALIFORNIA WATER CODE APPENDIX

### § 73-46. Drainage Areas and Zones (Continued)

The bonds shall be issued in such denomination as the board may determine, except that no bonds shall be of a less denomination than one hundred dollars (\$100), nor of a greater denomination than ten thousand dollars (\$10,000), and shall be payable on the days and at the place fixed in said bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of the maximum rate allowed by law, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the secretary of said district, and the seal of said district shall be affixed thereto by said secretary. Either or both of such signatures may be printed, engraved or lithographed. The interest coupons of said bonds shall be numbered consecutively and signed by the said secretary by his printed, engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds to the purchaser, such bonds and coupons, and signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if such officers had remained in office until the delivery of the bonds.

**(h) Issue and sale of bonds.** The board may issue and sell the bonds of the local drainage areas or zones authorized as hereinbefore provided above or below par value, and the proceeds of the sale of such bonds shall be placed in the treasury of the County of Fresno to the credit of the district and the respective participating local drainage zones thereof, for the use and purposes of the local drainage zone or zones voting said bonds; and the proper record of such transactions shall be placed upon the books of said county treasurer, and the respective local drainage area or zone funds shall be applied exclusively to the purposes and objects mentioned in the resolution calling for such special bond election as aforesaid, subject to the provisions in this act contained. Payments from the local drainage area or zone funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon the funds of the County of Fresno.

**(i) Payment of bonds.** Any bonds issued under the provisions of this act, and the interest thereon, shall be paid by revenue derived from the levy of an annual assessment tax on all taxable real property within a local drainage area or zone or participating local drainage areas or zones, including both land and improvements thereon.

**(j) Tax to pay bonds.** The board shall levy an assessment tax each year sufficient to pay the interest and such portion of the principal of said bonds as is due or to become due before the time for making the next general levy. Such assessment taxes shall be levied and collected in the respective local drainage areas or zones of issuance together with and not separately from taxes for county purposes, and when collected shall be paid into the county treasury of Fresno County to the credit of the local drainage area or zone of issuance, and to be used for the payment of the principal and interest on said bonds and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer of said Fresno County in the manner provided by law for the payment of principal and interest on bonds of the county.

## SECTION 73-46, CALIFORNIA WATER CODE APPENDIX

### § 73-46. Drainage Areas and Zones (Continued)

**(k) Taxation; law applicable.** The provisions of law of this state, prescribing the time and manner of levying, assessing, equalizing and collecting county property taxes, including the sale of property for delinquency and the redemption from such sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof.

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

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

**(m) Tax exemption of bonds.** All bonds issued by the district under the provisions of this act shall be free and exempt from all taxation within the State of California. It is hereby declared that the district organized by this act is a legal government within the meaning of Section 26 of Article XIII of the Constitution of this state.

**(n) Repeals or amendments; effect on obligations.** The repeal or amendment of this act shall not in any way affect or release any of the property in the district or any local drainage area or zone thereof from the obligations of any outstanding bonds or indebtedness until all such bonds and outstanding indebtedness have been fully paid and discharged.

**(o) Temporary investment of bond proceeds.** Notwithstanding any provisions of this act to the contrary, in the event the proceeds from the sale of bonds of any local drainage area or zone are invested temporarily in United States bonds, notes, or certificates of indebtedness, or in other legal investments pending the expenditure of the funds for the purpose or purposes for which the indebtedness was incurred, any revenue or interest received or accruing there from may be used to pay the annual or semiannual installments of principal or interest on the bonds as the same becomes due. (*Added by Stats. 1982, c. 661, p. 2690, § 30. Amended by Stats. 1985, c. 1229, § 11, eff. Sept. 30, 1985.*)