

WATER CODE - WAT

DIVISION 31. BAY AREA WATER SUPPLY AND CONSERVATION AGENCY [81300 - 81461]

(Division 31 added by Stats. 2002, Ch. 844, Sec. 1.)

CHAPTER 1. General Provisions and Definitions [81300 - 81309]

(Chapter 1 added by Stats. 2002, Ch. 844, Sec. 1.)

ARTICLE 1. General Provisions [81300 - 81301]

(Article 1 added by Stats. 2002, Ch. 844, Sec. 1.)

81300.

This division shall be known and may be cited as the Bay Area Water Supply and Conservation Agency Act.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81301.

The Legislature finds and declares all of the following:

(a) Many separate cities, districts, and public utilities are responsible for distribution of water in portions of the Bay Area served by the regional system operated by the City and County of San Francisco. Residents in the Counties of Alameda, San Mateo, and Santa Clara who depend on the water made available on a wholesale basis by the regional system have no right to vote in elections in the City and County of San Francisco and are not represented on the San Francisco commission that oversees operation of the regional system.

(b) The San Francisco regional system is vulnerable to catastrophic damage in a severe earthquake, which could result in San Francisco and neighboring communities being without potable water for up to 60 days. The San Francisco regional system is also susceptible to severe water shortages during periods of below average precipitation because of insufficient storage and the absence of contractual arrangements for alternative dry year supplies.

(c) The lack of a local, intergovernmental, cooperative governance structure for the San Francisco regional system prevents a systematic, rational, cost-effective program of water supply, water conservation, and recycling from being developed, funded, and implemented.

(d) It is the intent of the Legislature to enable local governments responsible for water distribution in the three counties to establish a multicounty agency authorized to plan for and acquire supplemental water supplies, to encourage water conservation and use of recycled water on a regional basis, and to assist

in the financing of essential repairs and improvements to the San Francisco regional water system, including seismic strengthening.

(e) The need for coordinated planning and implementation of strategies for water supply, water conservation, water recycling, and repair and improvement of the San Francisco regional system may appropriately lead to the establishment of the Bay Area Water Planning and Conservation Agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

CHAPTER 1. General Provisions and Definitions [81300 - 81309]

(Chapter 1 added by Stats. 2002, Ch. 844, Sec. 1.)

ARTICLE 2. Definitions [81302 - 81309]

(Article 2 added by Stats. 2002, Ch. 844, Sec. 1.)

81302.

Unless the context otherwise requires, the definitions in this article govern the construction of this division.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81303.

“Agency” means the Bay Area Water Supply and Conservation Agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81304.

“Board” means the board of directors of the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81305.

“Eligible public entities” means the 24 public entities in San Mateo County, Alameda County, and Santa Clara County that purchase water from San Francisco pursuant to the July 2009 Water Supply Agreement, or any subsequent water supply contract, that include Alameda County Water District, City of Brisbane, City of Burlingame, Coastside County Water District, City of Daly City, City of East Palo Alto, Estero Municipal Improvement District, Guadalupe Valley Municipal Improvement District, City of Hayward, Town of Hillsborough, City of Menlo Park, Mid-Peninsula Water District, City of Millbrae, City of Milpitas, City of Mountain View, North Coast County Water District, City of

Palo Alto, Purissima Hills Water District, City of Redwood City, City of San Bruno, City of San Jose, City of Santa Clara, City of Sunnyvale, and Westborough Water District.

(Amended by Stats. 2010, Ch. 63, Sec. 1. Effective January 1, 2011.)

81306.

“Project” means a work and all of the activities related to, or necessary for, the acquisition, construction, operation and maintenance of a work, including, but not limited to, planning, design, financing, contracting, project management, and administration.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81307.

“Regional water system” means facilities for the storage, treatment, and transmission of water operated by San Francisco located in the Counties of Tuolumne, Stanislaus, San Joaquin, Alameda, Santa Clara, San Mateo, and three terminal reservoirs in San Francisco.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81307.5.

“San Francisco” means the City and County of San Francisco.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81308.

“Work” or “works” include, but is not limited to, reservoirs, water treatment plants, facilities for the transmission of water, water conservation measures and programs, facilities for the conjunctive use of surface water and groundwater, and facilities for the transmission of recycled water.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81309.

“Zone” means an improvement district, assessment district, or area benefiting from a project.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

ARTICLE 1. Resolution of Intention [81315 - 81316]

(Article 1 added by Stats. 2002, Ch. 844, Sec. 1.)

81315.

(a) The governing body of a public entity identified in Section 81305, by a majority vote of all of its members, may declare the intention of that entity to form the agency with all of the other public entities identified in that section.

(b) The resolution shall meet all of the following requirements:

(1) Identify the name of the public entity adopting the resolution.

(2) Identify the name of each public entity proposed to be a member of the agency, which shall include all public entities identified in Section 81305.

(3) Fix the time and place within the boundaries of the public entity adopting the resolution at which a hearing will be held by its governing body to determine whether to form the agency and whether to become a member of the agency. The date of the hearing may not be less than 30 days, nor more than 60 days, from the date of the adoption of the resolution.

(4) Direct publication of the resolution one time in a newspaper of general circulation within the boundaries of the public entity adopting the resolution at least two weeks prior to the date set for the hearing.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81316.

The governing board of the public entity adopting the resolution pursuant to Section 81315, not later than 10 days after the date of the adoption of the resolution, shall mail a certified copy of the resolution to the governing body of each public entity identified in the resolution as a proposed member of the agency. The governing body of each proposed member, not later than 60 days after the date of the adoption of the resolution described in Section 81315, shall adopt a resolution fixing the time and place within the boundaries of that public entity at which a hearing will be held to determine whether to form the agency and whether to become a member. The date of the hearing shall be not less than 30 days, nor more than 60 days, from the date of the adoption of the resolution by that public entity. The resolution shall be published one time in a newspaper of general circulation within the boundaries of that public entity at least two weeks prior to the date set for the public hearing.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

ARTICLE 2. Formation Hearings [81317 - 81319]

(Article 2 added by Stats. 2002, Ch. 844, Sec. 1.)

81317.

At the times and places specified in the resolutions adopted pursuant to Section 81315 or 81316, the governing body of each public entity shall hold a public hearing on the question of whether to form, and become a member of, the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81318.

As soon as practicable after the completion of the public hearing described in Section 81317, and in any event not later than 60 days thereafter, the governing body of each public entity shall adopt a resolution that declares the finding of the governing body as to whether to form and become a member of the agency. The adoption of the resolution, whether affirmative or negative, is subject to referendum pursuant to Division 9 (commencing with Section 9000) of the Elections Code, but shall not be a "project" for the purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81319.

Not later than 10 days after the date of the adoption of the resolution required by Section 81318, the governing body of each public entity shall cause a certified copy of the resolution to be forwarded to the Board of Supervisors of San Mateo County.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

ARTICLE 3. Establishment of Agency [81325 - 81331]

(Article 3 added by Stats. 2002, Ch. 844, Sec. 1.)

81325.

Not later than 60 days from the date of the receipt of the resolutions pursuant to Section 81319, the Board of Supervisors of San Mateo County shall determine whether or not resolutions to form and join the agency have been adopted by at least 15 public entities representing collectively at least 60 percent of the total

water deliveries of all the public entities identified in Section 81305. In making that determination, the board of supervisors shall use the water delivery quantities set forth in subdivision (b) of Section 81460. If 15 or more public entities representing collectively 60 percent or more of those water deliveries have adopted those resolutions, the board of supervisors, by order entered in its minutes, shall declare that the agency has been formed and list each public entity that is a member of the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81325.5.

In making the determination required by Section 81325, the board of supervisors shall include all resolutions received by the county at least 10 days before the date of the public meeting at which the determination is made.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81325.7.

If the board of supervisors determines that the resolutions submitted are insufficient to form the agency, the eligible public entities may again undertake the process described in Sections 81315 to 81319, inclusive, at any time. In addition, resolutions adopted that approve formation of the agency may remain in effect for the time specified in those resolutions, unless those resolutions are otherwise repealed.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81326.

The Clerk of the Board of Supervisors of San Mateo County, not later than 10 days from the date of entry of an order described in Section 81325, shall file a certificate with the Secretary of State identifying the name of the agency and the names of each public entity that is a member of the agency. The board of supervisors shall include a map showing the boundaries of the agency, with reference to the boundaries of each member public entity.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81327.

The Secretary of State, not later than 10 days from the date of the receipt of the certificate described in Section 81326, shall issue a certificate of formation reciting that the agency has been formed pursuant to this division and

identifying the public entities of which the agency is comprised. The Secretary of State shall transmit a copy of the certificate to each public entity that is a member of the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81328.

The formation of the agency shall be effective on the date of the issuance of the Secretary of State's certificate.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81329.

No invalidity or irregularity in any proceeding that does not substantially and adversely affect the interests of any public entity identified in Section 81305 may be held to invalidate the formation of the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81330.

Any action or proceeding in which the validity of the formation of the agency, or any of the proceedings in relation thereto, is contested, questioned, or challenged shall be commenced not later than 60 days from the date of the Secretary of State's certificate of formation. In the absence of that action or proceeding, the formation and legal existence of the agency, and all proceedings in relation thereto, shall be held to be in every respect valid, legal, and incontestable.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81331.

The formation of the agency, proceedings to increase its membership pursuant to Section 81456 or 81456.5, or the establishment or modification of any zone or improvement district is not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

ARTICLE 1. Board of Directors [81335 - 81406]

(Article 1 added by Stats. 2002, Ch. 844, Sec. 1.)

81335.

The agency shall be governed by a board of directors.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81336.

(a) The governing body of each member public entity shall appoint one member to the board of the agency. Each director shall be a registered voter and reside within the boundaries of the member public entity whose governing board appoints him or her.

(b) For the purposes of subdivision (a), the governing body may appoint one of its own members to the board if that person otherwise meets the requirements of that subdivision.

(c) (1) The Board of Supervisors of San Mateo County shall appoint one member to the board who is an officer or employee of the California Water Service Company.

(2) The Board of Supervisors of Santa Clara County shall appoint one member to the board who is an officer or employee of Stanford University.

(d) The initial appointments shall be made not later than 60 days after the date of the issuance of the certificate of formation pursuant to Section 81327.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81336.5.

(a) No incompatibility of office shall result from an elected official serving on the board of the agency and on the governing board of a member public entity. A board member may vote on contracts or other matters involving the member public entity he or she represents.

(b) The agency may enter into a contract with California Water Service Company only if both of the following requirements are met:

(1) The director appointed by the Board of Supervisors of San Mateo County does not participate in a vote on the contract.

(2) The contract is approved by the affirmative vote of a majority of all members of the board other than the director appointed by the Board of Supervisors of San Mateo County.

(c) The agency may enter into a contract with Stanford University only if both of the following requirements are met:

(1) The director appointed by the Board of Supervisors of Santa Clara County does not participate in a vote on the contract.

(2) The contract is approved by the affirmative vote of a majority of all members of the board other than the director appointed by the Board of Supervisors of Santa Clara County.

(d) A contract approved pursuant to the requirements of this division does not constitute a violation of Section 1090 or 1097 of the Government Code, nor is it void or voidable pursuant to Section 1092 of the Government Code.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81337.

Each director, before entering upon the duties of his or her office, shall take the oath of office as provided for in the California Constitution and laws of the state. The chairperson or vice chairperson of the board, or the secretary of the agency, may administer the oath.

(Amended by Stats. 2010, Ch. 63, Sec. 2. Effective January 1, 2011.)

81338.

(a) Each director shall serve a term of four years.

(b) Notwithstanding subdivision (a), the directors initially appointed to the board shall determine, by lot, that one-half plus one of their number shall serve for four years and the remaining directors shall serve for two years. Thereafter, each appointing authority shall appoint a person to replace its respective director or may reappoint its director for an unlimited number of terms.

(c) A vacancy on the board shall be filled by the respective appointing authority not later than 90 days from the date of the occurrence of the vacancy.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81339.

Each director may receive compensation in an amount prescribed by the board, not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board, not to exceed four meetings in any calendar month. In addition, each director may be reimbursed for actual, necessary, and reasonable expenses incurred in the performance of duties performed at the request of the board. The compensation of directors may be increased pursuant to Chapter 2 (commencing with Section 20200) of Division 10.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81400.

A majority of the members of the board constitutes a quorum for the transaction of business. The board shall act only by ordinance, resolution, or motion.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81401.

The board shall hold its first meeting as soon as possible after the appointment of the initial directors. At its first meeting, and at its first meeting in January each year thereafter, the board shall elect a chairperson and a vice-chairperson from among its members.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81402.

The board shall provide for the time and place of holding its regular meetings. All meetings of the board shall be called and held in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81403.

Subject to Section 81405, each director has one vote. The affirmative vote of a majority of the total membership of the board is necessary and sufficient to carry any motion, resolution, or ordinance, except when weighted voting is in effect pursuant to Section 81404 or as otherwise provided by this division.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81404.

Before the vote on any motion, resolution, or ordinance is taken, any director may call for weighted voting. Upon such a call, Section 81405 shall apply as to that motion, resolution, or ordinance.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81405.

(a) Weighted voting shall be based on the average deliveries of water during the 2000–01 fiscal year, as set forth in Section 81460.

(b) When weighted voting is in effect, there shall be a total of 100 possible votes. The allocation of these votes among the directors shall be determined as follows:

(1) The water deliveries to each member public entity, California Water Service Company, and Stanford University, as set forth in Section 81460, shall be totaled.

(2) Each director representing a member public entity whose individual water delivery is less than 1.5 percent of the total amount calculated pursuant to paragraph (1) shall be assigned one vote.

(3) The water deliveries to all member public entities assigned one vote pursuant to paragraph (2) shall be totaled and that sum shall be subtracted from the total amount calculated pursuant to paragraph (1).

(4) The ratio of individual water deliveries to each remaining member public entity, California Water Service Company, and Stanford University to the total water deliveries calculated pursuant to paragraph (3) shall be determined and expressed as a fraction.

(5) The total number of votes assigned to directors pursuant to paragraph (2) shall be subtracted from 100.

(6) The number resulting from the calculation described in paragraph (5) shall be multiplied by the fractions calculated pursuant to paragraph (4), and the products of that multiplication shall be rounded to the nearest whole number. Each director, other than those assigned one vote pursuant to paragraph (2), shall be assigned the number of votes resulting from this calculation.

(c) When weighted voting is in effect, the affirmative vote of directors representing both (1) a majority of the members of the board present and voting, and (2) a majority of the number of votes, determined pursuant to this section, represented by directors present and voting shall be necessary to carry any motion, resolution, or ordinance.

(d) Notwithstanding any other provision of this division, the board may establish alternative procedures and methods for weighted voting, including a limitation on the types of measures to which it applies, by a vote of (1) at least two-thirds of all the directors of the board, each director having one vote on the question, and (2) at least 51 votes, determined pursuant to this section.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81406.

(a) On all ordinances and resolutions, and on all questions to be decided by weighted voting, the roll shall be called and ayes and noes recorded in the minutes of the proceedings of the board.

(b) Motions, other than motions to be decided by weighted voting, may be adopted by voice vote, except that the roll shall be called at the request of any director.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

ARTICLE 2. Officers and Employees [81407 - 81410]

(Article 2 added by Stats. 2002, Ch. 844, Sec. 1.)

81407.

The board shall appoint a general manager, a financial officer, and a secretary. The board may establish other offices that may be necessary or convenient. The board shall appoint, and prescribe the duties, compensation, and terms and conditions of employment of, all officers.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81408.

The board may employ other employees that the board determines are necessary or convenient and may delegate to the general manager the authority to employ or contract for the services of additional assistants or employees that the general manager determines necessary or convenient to operate the agency. The board shall extend offers of employment on terms comparable to those applicable to the employees of the Bay Area Water Users Association on January 1, 2003, as determined by the board.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81409.

The board may require, and establish the amount of, official bonds of officers and employees that are necessary for the protection of the funds and property of the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81410.

(a) Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code applies to all officers and employees of the agency.

(b) The agency is a "local government agency" for the purposes of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

ARTICLE 1. Powers [81415 - 81423]

(Article 1 added by Stats. 2002, Ch. 844, Sec. 1.)

81415.

The agency may exercise the powers that are expressly granted by this division, together with other powers that are reasonably implied from those express powers, and powers necessary and proper to carry out this division.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81416.

The agency may adopt a seal and alter it at pleasure.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81417.

The agency may adopt regulations to carry out this division.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81418.

(a) The agency may make contracts of any nature, including, but not limited to, contracts to employ labor, to indemnify and hold harmless, and to do all acts necessary or convenient for the full exercise of its powers.

(b) The agency may contract with any department or agency of the United States, the state, a public or private entity, or person.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81419.

The agency may take by grant, purchase, bequest, devise, lease, or eminent domain, and may hold, enjoy, lease, sell, or otherwise dispose of real and personal property of any kind, within or outside the boundaries of the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81420.

The agency may plan, finance, acquire, construct, maintain, and operate facilities for the collection, transmission, treatment, reclamation, reuse, and conservation of water. The agency may carry out any project or work.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81421.

The agency may disseminate information concerning its activities.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81422.

The agency may apply for and receive state and federal grants, loans, and other financial assistance, including, but not limited to, assistance available pursuant to Division 24 (commencing with Section 78500), Division 26 (commencing with Section 79000), and Division 26.5 (commencing with Section 79500) of this code, Division 43 (commencing with Section 75001) of the Public Resources Code, and any other financial assistance for water management activities authorized after January 1, 2009.

(Amended by Stats. 2010, Ch. 63, Sec. 3. Effective January 1, 2011.)

81423.

(a) The agency may assist any of the entities identified in Section 81460 that are subject to Part 2.55 (commencing with Section 10608) of Division 6 to meet urban water use targets developed pursuant to that part. In providing this assistance, the agency may act pursuant to paragraph (2) or (3) of subdivision (a) of Section 10608.28. If the agency provides this assistance pursuant to paragraph (2) of subdivision (a) of Section 10608.28, subdivision (b) of Section 10608.28 shall apply.

(b) If requested by entities listed in Section 81460 that are subject to Part 2.6 (commencing with Section 10610) of Division 6, the agency may develop and administer a regional conservation program described in clause (ii) of subparagraph (A) of paragraph (2) of subdivision (b) of Section 10631.5, regardless of whether the agency is an urban water supplier. The agency shall be eligible to receive financial assistance that may be available for the development or administration of these programs.

(c) The agency shall be considered a local agency as defined in Section 10535, and a local agency with statutory authority over water supply or water management pursuant to Section 10539, with all of the authority provided to a

local agency pursuant to Part 2.2 (commencing with Section 10530) of Division 6.

(Added by Stats. 2010, Ch. 63, Sec. 4. Effective January 1, 2011.)

ARTICLE 2. Financial Matters [81425 - 81435]

(Article 2 added by Stats. 2002, Ch. 844, Sec. 1.)

81425.

The board shall adopt a budget for each fiscal year.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81426.

The accounts of the agency shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants with experience in auditing the accounts of local public entities.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81427.

The agency may borrow money, incur indebtedness, and issue notes and bonds, as provided in this division or as otherwise authorized by law.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81428.

(a) The agency may issue revenue bonds upon the adoption of an ordinance by a two-thirds vote of all of the members of the board present and voting which also represents at least 51 votes determined pursuant to Section 81405. For the purposes of issuing bonds pursuant to this subdivision, the agency need not conduct an election or otherwise secure the approval of the voters within the boundaries of the agency.

(b) The agency shall publish a notice in a newspaper of general circulation at least 15 days before the meeting at which issuance of revenue bonds is to be considered and shall provide an opportunity for public comments during that meeting and before the directors vote on the issuance of those bonds.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81429.

The agency may issue bonds for the purpose of refunding any revenue bonds of the agency, whether due or not due.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81430.

The agency may issue negotiable promissory notes to acquire funds for any agency purpose. The notes shall have a term not to exceed five years. The total amount of notes issued pursuant to this section that may be outstanding at any one time may not exceed one million dollars (\$1,000,000).

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81431.

The authority granted pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), and the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) may be exercised by the agency to carry out this division.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81432.

Bonds and other evidences of indebtedness issued by the agency are legal investments for all trust funds and for funds of all insurers, commercial and savings banks, trust companies, and state schools. Funds that may be invested in bonds of cities, cities and counties, counties, school districts, or other local agencies may also be invested in bonds and other evidences of indebtedness of the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81433.

The board may impose assessments sufficient to pay the operating expenses included in the budget, which shall be an obligation of each member public entity, the California Water Service Company, and Stanford University. The

assessments shall be based on, and proportional to, water delivery amounts described in Section 81460.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81434.

The agency may use proceeds of bonds authorized by this division for the construction, reconstruction, or improvement of any works carried out by the agency. The agency may also make proceeds of bonds authorized by this division available to other local public agencies on mutually satisfactory terms and conditions to assist in the construction, reconstruction, or improvement of works designed and intended in whole or in part to furnish water to the members of the agency, whether those works are carried out jointly by the agency and other local public agencies, or solely by those other public agencies.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81435.

The agency may impose reasonable rates, fees, and charges on Stanford University, the California Water Service Company, and the agency's member public entities for any program or service provided or work performed by the agency. The agency may also impose reasonable rates, fees, and charges on any other public or private entity that enters into a contract with the agency for use of any program or service provided or work performed by the agency. These rates, fees, and charges shall be at least sufficient to generate revenue to pay the principal and interest on any bonds issued by the agency to carry out the work. The agency shall be solely responsible for servicing the debt on any bonds it issues and the State of California has no responsibility for those bonds.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

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81428.

(a) The agency may issue revenue bonds upon the adoption of an ordinance by a two-thirds vote of all of the members of the board present and voting which also represents at least 51 votes determined pursuant to Section 81405. For the purposes of issuing bonds pursuant to this subdivision, the agency need not conduct an election or otherwise secure the approval of the voters within the boundaries of the agency.

(b) The agency shall publish a notice in a newspaper of general circulation at least 15 days before the meeting at which issuance of revenue bonds is to be considered and shall provide an opportunity for public comments during that meeting and before the directors vote on the issuance of those bonds.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81429.

The agency may issue bonds for the purpose of refunding any revenue bonds of the agency, whether due or not due.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81430.

The agency may issue negotiable promissory notes to acquire funds for any agency purpose. The notes shall have a term not to exceed five years. The total amount of notes issued pursuant to this section that may be outstanding at any one time may not exceed one million dollars (\$1,000,000).

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81431.

The authority granted pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), and the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) may be exercised by the agency to carry out this division.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81432.

Bonds and other evidences of indebtedness issued by the agency are legal investments for all trust funds and for funds of all insurers, commercial and savings banks, trust companies, and state schools. Funds that may be invested in bonds of cities, cities and counties, counties, school districts, or other local agencies may also be invested in bonds and other evidences of indebtedness of the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81433.

The board may impose assessments sufficient to pay the operating expenses included in the budget, which shall be an obligation of each member public entity, the California Water Service Company, and Stanford University. The assessments shall be based on, and proportional to, water delivery amounts described in Section 81460.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81434.

The agency may use proceeds of bonds authorized by this division for the construction, reconstruction, or improvement of any works carried out by the agency. The agency may also make proceeds of bonds authorized by this division available to other local public agencies on mutually satisfactory terms and conditions to assist in the construction, reconstruction, or improvement of works designed and intended in whole or in part to furnish water to the members of the agency, whether those works are carried out jointly by the agency and other local public agencies, or solely by those other public agencies.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81435.

The agency may impose reasonable rates, fees, and charges on Stanford University, the California Water Service Company, and the agency's member public entities for any program or service provided or work performed by the agency. The agency may also impose reasonable rates, fees, and charges on any other public or private entity that enters into a contract with the agency for use of any program or service provided or work performed by the agency. These rates, fees, and charges shall be at least sufficient to generate revenue to pay the principal and interest on any bonds issued by the agency to carry out the work. The agency shall be solely responsible for servicing the debt on any bonds it issues and the State of California has no responsibility for those bonds.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

ARTICLE 2.5. Additional Financing Authority [81436 - 81438]

(Article 2.5 added by Stats. 2012, Ch. 251, Sec. 1.)

81436.

For the purposes of this article, the following definitions shall apply:

(a) "BAWSCA members" means Stanford University, the California Water Service Company, and eligible public entities as defined by Section 81305.

(b) "July 2009 Water Supply Agreement" means the water supply agreement by and between the City and County of San Francisco and the BAWSCA members, as amended or supplemented.

(Added by Stats. 2012, Ch. 251, Sec. 1. Effective January 1, 2013.)

81436.5.

The agency may prepay all or a portion of any unpaid principal balance relating to the existing capital assets as of June 30, 2009, on behalf of BAWSCA members, as provided in the July 2009 Water Supply Agreement.

(Added by Stats. 2012, Ch. 251, Sec. 1. Effective January 1, 2013.)

81437.

(a) (1) The agency may acquire from the City and County of San Francisco the right to receive all or a portion of the amounts payable by BAWSCA members under the July 2009 Water Supply Agreement.

(2) The City and County of San Francisco may sell to the agency its right to receive amounts payable by BAWSCA members under the July 2009 Water Supply Agreement.

(b) (1) If the agency acquires, and the City and County of San Francisco sells, the right to receive amounts payable pursuant to subdivision (a), if requested by the agency, the City and County of San Francisco shall continue to collect amounts payable by BAWSCA members under the July 2009 Water Supply Agreement in accordance with the terms of that agreement and the City and County of San Francisco shall transfer amounts so collected to the agency on a monthly basis or on a periodic basis agreed to by the agency and the City and County of San Francisco.

(2) The agency shall apply amounts received pursuant to this subdivision to pay debt service on any bonds issued by the agency for a use authorized by Section 81437.5 and to satisfy all other obligations of the agency related to these bonds.

(3) The agency may distribute any amounts received pursuant to this subdivision not needed for the purposes of this subdivision to BAWSCA members. The agency may condition any distribution pursuant to this paragraph upon BAWSCA members' agreement to waive any right of prepayment respecting any amounts purchased that the member may have under the July 2009 Water Supply Agreement.

(Added by Stats. 2012, Ch. 251, Sec. 1. Effective January 1, 2013.)

81437.5.

In addition to the uses authorized in Section 81434, the agency may use proceeds of bonds issued pursuant to this division as follows:

(a) For the construction, reconstruction, or improvement of any works carried out by the agency on behalf of a BAWSCA member.

(b) For the purpose of assisting in the repayment of any existing capital assets, if those assets were designed and intended in whole or in part to furnish water to BAWSCA members, whether those assets were carried out jointly by the agency and other local public agencies, or solely by those other public agencies.

(c) To make a prepayment, as described in Section 81436.5, or an acquisition, as described in Section 81437.

(d) To pay the costs of issuance of the bonds and to fund reserve funds securing the bonds.

(Added by Stats. 2012, Ch. 251, Sec. 1. Effective January 1, 2013.)

81438.

(a) In addition to the authority granted in Section 81435, the agency may do all of the following:

(1) Impose reasonable rates, fees, and charges on BAWSCA members for any program or service provided or work performed by the agency.

(2) Impose rates, fees, and charges on BAWSCA members and any entity that subsequently serves a BAWSCA member's service area in an amount as shall be necessary, together with other available sources of funds, to pay debt service on any bonds issued by the agency for a use authorized by Section 81437.5 and to satisfy all other obligations of the agency related to these bonds, including, but not limited to, funding and maintaining reserve funds and complying with financial covenants.

(3) Distribute any amounts collected that are not needed for the purposes of this article to BAWSCA members.

(b) If requested by the agency, the City and County of San Francisco shall collect any rates, fees, and charges imposed by the agency pursuant to this section as a surcharge under the July 2009 Water Supply Agreement. These amounts shall be collected in a manner, and with remedies for nonpayment, specified in an agreement between the agency and the City and County of San Francisco.

(Added by Stats. 2012, Ch. 251, Sec. 1. Effective January 1, 2013.)

ARTICLE 3. Controversies [81440 - 81442]

(Article 3 added by Stats. 2002, Ch. 844, Sec. 1.)

81440.

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

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81441.

All claims for money or damages against the agency are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81442.

An action to determine the validity of any contract, or any bond, note, or other evidence of indebtedness, may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

CHAPTER 5. Water Supply [81445 - 81452]

(Chapter 5 added by Stats. 2002, Ch. 844, Sec. 1.)

81445.

The agency may do all of the following:

- (a) Acquire water and water rights within or outside the state.
- (b) Develop, store, and transport water.
- (c) Provide, deliver, and sell water at wholesale for municipal, domestic, and industrial purposes to any city, county, district, other local public entity, public utility, or mutual water company located within the boundaries of the agency, and to Stanford University.
- (d) Acquire, construct, operate, and maintain any and all works, facilities, improvements, and property within or outside the boundaries of the agency necessary or convenient to carry out this division.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81446.

The agency may conduct studies of the water supplies available to its members, and their current and future demand for water. The agency may develop plans for projects and programs that can assist its members to meet those future water needs.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81447.

The agency may provide, deliver, and sell water not needed for municipal, domestic, or industrial uses within the boundaries of the agency for beneficial purposes but shall give preference to users within the agency. The supply of surplus water shall in every case be subject to the paramount right of the agency to discontinue that supply in whole or in part upon one year's notice to the purchaser or user of that surplus water.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81448.

The agency may not sell water to any retail user within the boundaries of the agency. Sales to Stanford University shall not be deemed sales to a retail user.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81449.

Except as provided in Section 81452, the agency may exercise the right of eminent domain in the manner provided by law to acquire any property, within or outside the boundaries of the agency, necessary or convenient to carry out this division.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81450.

The agency is entitled to the benefit of any reservation or grant, in all cases, where any right has been reserved or granted to the state, or any agency or political subdivision thereof, or any public corporation, to construct or maintain water-related facilities in, under, or over any public or private lands. Nothing in this section authorizes the agency to construct facilities on lands owned or controlled by San Francisco without the consent of San Francisco.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81451.

The agency may construct and operate works and facilities in, under, over, across, or along any street or public highway or over any of the lands which are the property of the state to the same extent that those rights and privileges are granted to cities within the state.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81452.

The agency may not acquire by eminent domain, interfere with, or exercise any control over, any water distribution facility owned and operated by any city, city and county, local public entity, or public utility without the consent of, and upon those terms that are mutually agreed to by, that city, city and county, local public agency, or public utility.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

CHAPTER 6. Changes in Organization [81455 - 81456.7]

(Chapter 6 added by Stats. 2002, Ch. 844, Sec. 1.)

81455.

Any territory annexed to, or detached from, a member public entity, upon completion of the annexation or detachment, shall be deemed annexed to, or detached from, the agency.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81456.

(a) A public entity identified in Section 81305 that is not a member at the time the agency is formed pursuant to Section 81328 may thereafter join the agency, with the approval of the board of the agency and subject to those terms and conditions that the board determines are necessary to ensure that the new member pays an equitable share of the costs previously incurred by the agency.

(b) The new member shall appoint one director and, for the purposes of this division, the new member shall be subject to the water delivery amounts described in Section 81460 that apply to that new member.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81456.5.

San Francisco may become a member of the agency pursuant to Section 81456.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81456.7.

Not later than 10 days after the date on which any new member is admitted, the agency shall notify in writing the Secretary of State with regard to the name of the new member and the date of its admission.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

CHAPTER 7. Miscellaneous [81457 - 81461]

(Chapter 7 added by Stats. 2002, Ch. 844, Sec. 1.)

81457.

Membership of a public entity in the agency does not affect the identity or legal existence, nor impair the powers, of that public entity.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81459.

This division shall be liberally construed to carry out its purposes.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)

81460.

(a) The water delivery quantities set forth in subdivision (b) describe, for the purposes of this division, the average daily deliveries of water from San Francisco to the identified entities during the 2000–01 fiscal year.

(b) The water delivery quantities are as follows:

Name	Average Daily Deliveries in Hundred Cubic Feet
Alameda County Water District	15,709
California Water Service Company	49,610
City of Brisbane	489
City of Burlingame	6,503
City of Daly City	6,070
City of East Palo Alto	2,864
City of Hayward	24,546
Town of Hillsborough	5,099
City of Menlo Park	4,616
City of Millbrae	3,669
City of Milpitas	9,437
City of Mountain View	14,860
City of Palo Alto	18,438
City of Redwood City	15,753
City of San Bruno	3,266
City of San Jose	6,436
City of Santa Clara	5,473
City of Sunnyvale	13,112

Coastside County Water District	2,070
Estero Municipal Improvement District	7,873
Guadalupe Valley Municipal Improvement District	611
Mid-Peninsula Water District	4,789
North Coast County Water District	4,594
Purissima Hills Water District	2,921
Stanford University	3,604
Westborough Water District	1,352

(c) If San Francisco becomes a member of the agency, the average daily delivery of water to San Francisco during the 2000–01 fiscal year, for the purposes of this division, shall be determined to be 118,973 hundred cubic feet.

(d) If one of the entities listed in subdivision (b) succeeds, whether by merger, consolidation, acquisition, assignment, or otherwise, to the rights and obligations of another entity under the July 2009 Water Supply Agreement, or any subsequent water supply contract, the successor entity’s quantity of water shall be increased, for purposes of Section 81405, by the amount of the nonsucceeding entity’s quantity of water, without the necessity for an amendment to subdivision (b).

(Amended by Stats. 2010, Ch. 63, Sec. 5. Effective January 1, 2011.)

81461.

Nothing in this act changes the governance, control, or ownership of the regional water system.

(Added by Stats. 2002, Ch. 844, Sec. 1. Effective January 1, 2003.)