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AB-552 United Water Conservation District. (2017-2018)

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Assembly Bill No. 552

CHAPTER 294

An act to add Article 6 (commencing with Section 75634) to Chapter 3 of Part 9 of Division 21 of the Water Code, relating to water conservation districts.

[Approved by Governor September 26, 2017. Filed with Secretary of State September 26, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 552, Irwin. United Water Conservation District.

(1) Existing law, the Water Conservation District Law of 1931, authorizes a water conservation district to be organized and established by a county board of supervisors, with specified powers and purposes.

This bill would authorize the United Water Conservation District to inspect any water-producing facility within its boundaries with the consent of the operator of the water-producing facility or with a duly issued inspection warrant, as prescribed. Because the willful refusal of an inspection lawfully authorized by an inspection warrant is a misdemeanor, this bill would impose a state-mandated local program by expanding the application of a crime.

(2) The law permits a water conservation district to levy groundwater charges and requires a district to cause to be made annually an engineering investigation and report on groundwater conditions of the district. The law requires the district board to hold a hearing on the report and then authorizes the board to make a determination to levy a groundwater charge. The law requires, when a water-producing facility in a zone with a groundwater charge is permanently abandoned, that the operator of the facility give written notice of the abandonment to the district.

This bill would authorize the United Water Conservation District to affix seals to an abandoned water-producing facility.

(3) The law requires a district, if any operator of a water-producing facility fails to pay the groundwater charge when due, to charge interest at the rate of 1% each month on the delinquent amount. The law requires a district, if any operator of a water-producing facility fails to register the facility or fails to file required water production statements, to additionally assess a penalty charge against the operator in an amount of 10% of the amount due.

This bill would authorize the United Water Conservation District to assess an administrative charge to recover the cost of collection of delinquent unpaid charges and would authorize the district to adopt an ordinance to provide that in excusable or justifiable circumstances, the administrative charge may be reduced or waived.

(4) The law authorizes a district to bring a suit against any operator, as defined, of a water-producing facility within the district for the collection of any delinquent groundwater charge. The law authorizes a court, in addition to allowing recovery of costs to the district, to fix and allow as part of the judgment interest and penalties, as specified.

This bill would authorize the United Water Conservation District to seek a writ of attachment against the property of any named defendant in an above-described suit, as specified. This bill would authorize the district to recover administrative charges in these suits brought against an operator. This bill would authorize, as an alternative to bringing a suit, the district to collect any delinquent groundwater charge and any interest, penalties, costs, and administrative charges in the same manner as delinquent assessments, water charges, or tolls. The bill would authorize as an additional remedy, after specified notice and a public hearing, the district to order an operator to cease extraction of groundwater from a water-producing facility until all delinquent fees and charges are paid.

(5) The law authorizes a court in a suit by a district against an operator of a water-producing facility within the district for the collection of any delinquent groundwater charge to issue and grant an injunction restraining and prohibiting the defendant from the operation of any water-producing facility when it is established at the hearing that the defendant has failed to register the facility with the district or that the defendant is delinquent in payment of groundwater charges for the facility.

This bill would authorize the United Water Conservation District, following the issuance of the injunction, as a condition of allowing future operation of the water-producing facility, to require the operator to post a cash deposit or bond with the district, as prescribed.

(6) This bill would make legislative findings and declarations as to the necessity of a special statute for the United Water Conservation District.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 6 (commencing with Section 75634) is added to Chapter 3 of Part 9 of Division 21 of the Water Code, to read:

Article 6. United Water Conservation District

75634. For the purposes of this article, "district" means the United Water Conservation District.

75634.5. For the purpose of investigating compliance with any provisions of this division or any district ordinance, the district may inspect any water-producing facility within the boundaries of the district. The district shall give notice to the operator by certified mail not less than 15 days in advance of the scheduled inspection. The inspection shall be made with the consent of the operator of the water-producing facility or, if consent is refused, with a warrant duly issued pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure.

75635. In addition to those remedies set forth in Sections 75615 and 75616, if the operator of a water-producing facility fails to file a water production statement or pay delinquent groundwater charges when due, the district may assess an administrative charge to recover the cost of collection of delinquent unpaid charges. The board may provide by ordinance that in excusable or justifiable circumstances, the administrative charge may be reduced or waived.

75635.5. (a) In addition to the district's right to bring a suit against any operator of a water-producing facility within the district for the collection of any delinquent groundwater charges, interest, and penalties as provided in Section 75633, as a provisional remedy in the action the district may seek a writ of attachment against the property of any named defendant in the suit and the district shall not be required to furnish a bond or other undertaking as provided in The Attachment Law (Title 6.5 (commencing with Section 481.010) of Part 2 of the Code of Civil Procedure).

(b) The district may recover costs and administrative charges in a suit against any operator of a water-producing facility within the district for the collection of any delinquent groundwater charges, interest, and penalties in accordance with Section 75633 or as otherwise provided in this article.

75636. In accordance with Section 75614, when an operator provides notice to the district of the abandonment of a water-producing facility or a water-producing facility is in fact abandoned, the district may affix seals to the facility.

75637. (a) As an alternative to bringing suit pursuant to Section 75633, the district may collect any delinquent groundwater charges and any interest, penalties, costs, and administrative charges. The collection shall be in the same manner as would be applicable to the collection of delinquent assessments, water charges, or tolls.

(b) As an additional remedy, the district may order, after a public hearing, an operator to cease extraction of groundwater from a water-producing facility until all delinquent fees and charges are paid. The district shall give notice to the operator by certified mail not less than 15 days in advance of the public hearing.

(c) The remedies specified in this section for the collection and enforcement of fees are cumulative, and the district may pursue them alternatively or use them consecutively as determined by the board.

75637.5. Following the issuance of an injunction restraining the operation of a water-producing facility in accordance with Section 75631 and the termination of any stay, as a condition of allowing future operation of the facility, the district may require the operator to post a cash deposit or bond with the district providing future assurance of payment of delinquent groundwater charges. The district may require the cash deposit or bond to be in an amount equal to the amount of delinquent groundwater charges due for the preceding six-month period.

75638. The remedies specified in this article are cumulative and the district may pursue them alternatively or use them concurrently as determined by the board of directors of the district.

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances associated with the United Water Conservation District.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.