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SB-1169 Los Angeles County Flood Control District: finances. (2023-2024)

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Senate Bill No. 1169

CHAPTER 77

An act to amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), relating to the Los Angeles County Flood Control District.

[Approved by Governor July 02, 2024. Filed with Secretary of State July 02, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1169, Stern. Los Angeles County Flood Control District: finances.

Existing law, the Los Angeles County Flood Control Act, establishes the Los Angeles County Flood Control District and authorizes the district to control and conserve the flood, storm, and other wastewaters of the district. Existing law authorizes the district to borrow money from certain entities for any flood control work authorized under the act and to repay the same, in annual installments, over a period not to exceed 20 years with an interest at a rate not to exceed 4.25% per annum. Existing law requires the district to annually levy a tax upon the taxable real property of the district clearly sufficient to pay the interest and installments of principal for those loans. Existing law limits the total amount the district may borrow not to exceed in the aggregate the sum of \$4,500,000. Existing law also limits the total amount of bonds or other evidence of indebtedness in the aggregate that the district may issue and sell to not exceed \$4,500,000.

This bill would instead authorize the district to borrow money or obtain loan guarantees from those entities and to repay the same over a period not to exceed 35 years with interest at a rate not to exceed 5.5% annually. The bill would instead authorize the district to levy a tax, in compliance with the applicable provisions of Article XIII C of the California Constitution, clearly sufficient to pay the interest and installments of principal for those loans. The bill would also delete the limits on the amount the district may borrow and the total amount of bonds or other evidence of indebtedness that the district may issue and sell.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Los Angeles County Flood Control District.

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

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

SECTION 1. Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), as amended by Section 1 of Chapter 617 of the Statutes of 2017, is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve these waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within the district, or to save or conserve in any manner, all or any of these waters, and to protect from damage from flood or storm waters, the harbors, waterways, public highways and property in the district, and to provide for public

use of navigable waterways under the district's control that are suitable for recreational and educational purposes, if these purposes are not inconsistent with the use by the district for flood control and water conservation.

The Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and has all the following powers:

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 adopt a seal and alter it at pleasure.
4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind inside or outside the district necessary to the full exercise of its power.
5. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements inside or outside 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 authorized by this act. Construction or improvement of existing facilities may involve landscaping and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.
6. To exercise the right of eminent domain, either inside or outside the district, to take any property necessary to carry out any of the objects or purposes of this act.
7. To incur indebtedness, and to issue bonds in the manner provided in this act.
 - 7a. To borrow money or obtain loan guarantees from the United States of America, any agency or department of the United States, or from any nonprofit corporation, organized under the laws of this state, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall later authorize, a loan to enable nonprofit corporation to lend money to the Los Angeles County Flood Control District, for any flood control work authorized pursuant to this act, and to repay the same, in annual installments, over a period of not to exceed 35 years, with interest at a rate of not to exceed 5.5 percent annually, payable semiannually, and, without the necessity of an election when authorized by resolution of the board of supervisors, as evidences of that indebtedness, the district is authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairperson of the board of supervisors of the district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in the resolution of the board of supervisors providing for their issuance, and notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of the chairperson of the board. All applications for these loans or loan guarantees shall specify the particular flood control work or projects for which the funds will be expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of the work, the surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as provided, for the loan including interest coupons. The board of supervisors may levy a tax in compliance with the applicable provisions of Article XIII C of the California Constitution clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure prompt payment, as may be provided by resolution of the board of supervisors. Notwithstanding any other provisions of law, interest earned on funds representing the proceeds of bonds of the district shall be deposited and retained in the reserve fund of the district to meet the principal and interest falling due on these bonds.
 - 7b. The power granted in subsection 7a shall be extended to authorize the issuance and sale of bonds or other evidences of indebtedness of the district to the County of Los Angeles and the purchase by the county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of subsection 7a relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance.
8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner provided in this section.
 - 8a. To levy a tax, in compliance with the applicable provisions of Article XIII C of the California Constitution, or impose a fee or charge, in compliance with the applicable provisions of Article XIII D of the California Constitution, to pay the costs and expenses of carrying out projects and programs to increase stormwater capture and reduce stormwater and urban runoff pollution in the

district pursuant to criteria established by the ordinance adopted pursuant to subsection 8c. Projects and programs funded by the revenues from the tax, fee, or charge may include projects providing multiple benefits that increase water supply, improve water quality, and, where appropriate, provide community enhancements such as the greening of schools, parks, and wetlands, and increased public access to rivers, lakes, and streams. Any tax, fee, or charge that is levied or imposed pursuant to this subsection shall be levied and collected together with, and not separately from, taxes for county purposes, and the revenues derived from the tax, fee, or charge shall be paid into the county treasury to the credit of the district, and the board of supervisors shall expend these funds to pay for costs and expenses pursuant to this subsection.

8b. The district shall allocate the revenues derived from any tax, fee, or charge imposed pursuant to subsection 8a as follows:

(A) Ten percent shall be allocated to the district for implementation and administration of projects and programs described in subsection 8a, and for payment of the costs incurred in connection with the levy and collection of the tax, fee, or charge and the distribution of the funds generated by imposition of the tax, fee, or charge, as provided by the procedures established by the ordinance adopted pursuant to subsection 8c.

(B) Forty percent shall be allocated to cities within the boundaries of the district and to the County of Los Angeles, in the same proportion as the amount of revenues collected within each jurisdiction and within the unincorporated territories, to be expended by those cities within the cities' respective jurisdictions and by the County of Los Angeles within the unincorporated territories that are within the boundaries of the district, for the implementation, operation and maintenance, and administration of projects and programs described in subsection 8a, pursuant to the procedures established by the ordinance adopted pursuant to subsection 8c.

(C) Fifty percent shall be allocated to pay for the implementation, operation and maintenance, and administration of watershed-based projects and programs described in subsection 8a, including projects and programs identified in regional plans such as stormwater resource plans developed pursuant to Part 2.3 (commencing with Section 10560) of Division 6 of the Water Code, watershed management programs developed pursuant to waste discharge requirements for municipal separate storm sewer system (MS4) discharges within the coastal watersheds of the County of Los Angeles, issued by the Los Angeles Regional Water Quality Control Board, and other regional water management plans, as appropriate, pursuant to the procedures established by the ordinance adopted pursuant to subsection 8c.

8c. The governing board of the district shall adopt an ordinance to establish criteria and procedures to implement the authority granted pursuant to subsections 8a and 8b.

9. To make contracts, and to employ for temporary services only, expert appraisers, consultants and technical advisers, and to do all acts necessary for the full exercise of all powers vested in the district, or any of the officers of the district, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by the Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained pursuant to this act and deposited upon the property of the district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract if the amount payable to the contractor exceeds five million dollars (\$5,000,000); provided, that the specifications in these cases shall specifically so provide and state that the bidder shall not include in their bids the cost of furnishing the required bonds.

13. To lease, sell or dispose of any property (or any interest in the property) whenever in the judgment of the board of supervisors, the property, or any interest in the property or part of the property, is no longer required for the purposes of the district, or may be leased for any purpose without interfering with the use of the same for the purposes of the district, and to pay the compensation received from the lease, sale, or disposal of the property, if any, into the general fund of the district and use the same for the purposes of this act. However, nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein except to public agencies for recreational purposes when the use is not inconsistent with the use by the district for flood control and water conservation purposes; or except as provided by Section 17 of this act. However, the district may grant and convey to the United States of America, or to any federal agency authorized to accept and pay for the land or interests in land, all lands and interests in land, now owned or later acquired, lying within any channel, dam or reservoir site, improved or constructed, in whole or in part, with federal funds, upon payment to the district of sums equivalent to actual expenditures made by it in acquiring the lands and interests in land so conveyed and deemed reasonable by the Secretary of War and the Chief of Engineers.

The district, by or through its board of supervisors, or other board or officers at any time succeeding to the duties or functions of its board of supervisors, is authorized and empowered to warrant and defend the title to all land and interests in the land so

conveyed to the United States of America or to any agency and its respective assigns; to covenant and agree to indemnify and keep indemnified and to hold and save harmless and exonerated the United States of America or any agency, to which lands or any interest in the land are so conveyed by the district, from and against all demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses, and attorneys' fees of any kind or nature, resulting from, arising out of, or occasioned by, any defect or defects in the title to any land or interest in land so conveyed by the district; to reimburse and save harmless and exonerated the United States of America or any agency for any and all amounts, paid, and expenses incurred, in the compromise or settlement of any demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses, and attorneys' fees of any kind or nature, resulting from, arising out of, or occasioned by any claim to or defect or defects in the title to any land or interests in land so conveyed by the district; to pay all just compensation, costs, and expenses, which may be incurred in any condemnation proceeding deemed necessary by the United States of America or that agency, in order to perfect title to any land or interests in land, including without limitation all attorneys' fees, court costs and fees, costs of abstracts and other evidences of title, and all other costs, expenses, or damages incurred or suffered by the United States of America or that agency; and consent is given to the bringing of suit or other legal proceedings against the district by the United States of America or that agency, as the case may be, in the proper district court of the United States, upon any cause of action arising out of any conveyance, contract, or covenant made or entered into by the district pursuant to the authority granted in this act, or to enforce any claims, damages, loss, or expenses arising out of, or resulting from, any defect in the title to the land or any interest in the land or any claims of others in or to the land or interest in the land.

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of the district which shall not interfere, or be inconsistent, with the primary use and purpose of the lands, facilities, and works by the district.

15. In addition to its other powers, the district shall have the power to preserve, enhance, and add recreational features to its properties and upon a finding by the board of supervisors that the acquisition is necessary for those purposes, to acquire, preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties, for the protection, preservation, and use of the scenic beauty and natural environment for the properties or the lands and to collect admission or use fees for the recreational features where deemed appropriate.

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 of the Los Angeles County Flood Control District, the limitations the state imposes on the district's federal borrowing capacity, and the district's need to effectively address its extensive infrastructure needs and the challenge of climate-induced flood risks.