

MEETING DATE:

April 6, 2009

AGENDA ITEM:

Authorization to Issue a Letter of Support Regarding Assembly Bill 139 Related to Authorizing the Los Angeles County Flood Control District to Collect Fees Only if Approved by Voters in Compliance with Article XIII D of the California Constitution (Proposition 218).

ATTACHMENTS

1. AB 139

Pages
1-10

ASSEMBLY BILL

No. 139

Introduced by Assembly Member Brownley

January 20, 2009

An act to amend Sections 2 and 16 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), relating to the Los Angeles County Flood Control District.

LEGISLATIVE COUNSEL'S DIGEST

AB 139, as introduced, Brownley. Los Angeles County Flood Control District: fees and charges.

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 wastewater of the district. The act declares the district to be a body corporate and politic, and to have various powers, including the power to cause taxes to be levied and collected for the purpose of paying any obligation of the district.

This bill would authorize the district to impose a fee or charge in compliance with Article XIII D of the California Constitution, to pay the costs and expenses of the district, and to carry out the objects or purposes of the act. The bill would require that any fees imposed be levied and collected, together with taxes for county purposes, and the revenues paid into the county treasury to the credit of the district.

The act authorizes the board of the district, subject to certain limitations, to do all acts or things necessary or useful for the promotion of the work or the control of the flood and storm waters of the district, to conserve those waters for beneficial and useful purposes, and to protect from damage from storm or flood waters, the harbors, waterways,

public highways, and property of the district. One limitation upon the authority of the board of the district is that it is not authorized to raise money for the district by any method or system other than by issuing bonds, or the levying of a tax upon the assessed value of all the real property of the district, except from the sale and lease of its property.

This bill would instead provide that the board of the district is not authorized to raise money for the district by any method or system other than by issuing bonds, or the levying of a tax, or the imposition of a fee or charge in compliance with Article XIII D of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2 of the Los Angeles County Flood
2 Control Act (Chapter 755 of the Statutes of 1915), as amended by
3 Chapter 1276 of the Statutes of 1975, is amended to read:

4 Sec. 2. The objects and purposes of this act are to provide for
5 the control and conservation of the flood ~~waters~~, storm *waters*,
6 and other waste waters of ~~said the~~ district, and to conserve such
7 waters for beneficial and useful purposes by spreading, storing,
8 retaining or causing to percolate into the soil within ~~said the~~ district,
9 or to save or conserve in any manner, all or any of such waters,
10 and to protect from damage from such flood *waters* or storm
11 waters, the harbors, waterways, public highways and property in
12 ~~said the~~ district.

13 ~~Said~~

14 *The Los Angeles County Flood Control District is hereby*
15 *declared to be a body corporate and politic, and as such shall have*
16 *power has all the following powers:*

17 1. To have perpetual succession.

18 2. To sue and be sued in the name of ~~said the~~ district in all
19 actions and proceedings in all courts and tribunals of competent
20 jurisdiction.

21 3. To adopt a seal and alter it at pleasure.

22 4. To take by grant, purchase, gift, devise or lease, hold, use,
23 enjoy, and to lease or dispose of real or personal property of every
24 kind within or without the district necessary to the full exercise of
25 its power.

1 5. To acquire or contract to acquire lands, rights-of-way,
2 easements, privileges and property of every kind, and construct,
3 maintain and operate any and all works or improvements within
4 or without the district necessary or proper to carry out any of the
5 objects or purposes of this act, and to complete, extend, add to,
6 repair or otherwise improve any works or improvements acquired
7 by it as herein authorized. Construction or improvement of existing
8 facilities may involve landscaping and other aesthetic treatment
9 in order that the facility will be compatible with existing or planned
10 development in the area of improvement.

11 6. To exercise the right of eminent domain, either within or
12 without the district, to take any property necessary to carry out
13 any of the objects or purposes of this act.

14 7. To incur indebtedness, and to issue bonds in the manner
15 herein provided.

16 7a. ~~In addition to the powers given in the next preceding~~
17 ~~subsection, to~~ To borrow money from the United States of America,
18 any agency or department thereof, or from any nonprofit
19 corporation, organized under the laws of this state, to which the
20 Reconstruction Finance Corporation, a corporation organized and
21 existing under and by virtue of an act of Congress, entitled
22 "Reconstruction Finance Corporation Act," or other agency, or
23 department, of the United States government, has authorized, or
24 shall hereafter authorize, a loan to enable such nonprofit
25 corporation to lend money to ~~said the~~ Los Angeles County Flood
26 Control District, for any flood control work authorized under this
27 act, and to repay the same, in annual installments, over a period
28 of not to exceed twenty (20) years, with interest at a rate of not to
29 exceed four and one-fourth per centum (4 ¼%) per annum, payable
30 semiannually, and, without the necessity of an election when
31 authorized by resolution of the board of supervisors, as evidences
32 of such indebtedness, ~~said the~~ district is hereby authorized to
33 execute and deliver a note, or a series of notes, or bonds, or other
34 evidences of indebtedness, signed by the chairman of the board of
35 supervisors of ~~said the~~ district, which notes, bonds, or other
36 evidences of indebtedness, shall be negotiable instruments if so
37 declared in ~~said the~~ resolution of the board of supervisors providing
38 for their issuance, and ~~said~~ notes, bonds, or other evidences of
39 indebtedness, may have interest coupons attached to evidence
40 interest payments, signed by the facsimile signature of ~~said~~

1 ~~chairman the chairperson of said the~~ board. All applications for
2 such loans shall specify the particular flood control work or projects
3 for which the funds will be expended, and when received, the
4 money shall be deposited in a special fund, and shall be expended
5 for those purposes only which are described and referred to in the
6 applications. If a surplus remains after the completion of ~~said the~~
7 work, such surplus shall be applied to the payment of the note,
8 notes, bonds, or other evidences of indebtedness, executed as
9 aforesaid, for the loan including interest coupons. The board of
10 supervisors shall annually, levy a tax upon the taxable real property
11 of ~~said the~~ district, clearly sufficient to pay the interest and
12 installments of principal, as the same shall become due and
13 payable, under any loan made pursuant to the authority of this
14 section, and to create and maintain a reserve fund to assure the
15 prompt payment thereof, as may be provided by ~~said~~ resolution of
16 the board of supervisors; provided, however, that the amount of
17 taxes levied in any year, pursuant to the provisions of this
18 subsection, shall, pro tanto, reduce the authority of the board of
19 supervisors, during any such year, to levy taxes under Section 14
20 of this act, but this proviso shall not be a limitation upon the power
21 and duty to levy and collect taxes under this subsection.
22 Notwithstanding any other provisions of law, interest earned on
23 funds representing the proceeds of bonds of the district shall be
24 deposited and retained in the reserve fund of the district to meet
25 the principal and interest falling due on such bonds.

26 Notwithstanding anything in this subsection ~~7a~~ to the contrary,
27 the total amount ~~which said the~~ district may borrow under the
28 authority of any or all of the provisions of this subsection is limited
29 to and shall not exceed in the aggregate the sum of four million
30 five hundred thousand dollars (\$4,500,000).

31 7b. The power granted in the next preceding subsection is hereby
32 extended to authorize the issuance and sale of bonds or other
33 evidences of indebtedness of ~~said the~~ district to the County of Los
34 Angeles and the purchase thereof by ~~said the~~ county in accordance
35 with "An act authorizing the investment and reinvestment and
36 disposition of any surplus moneys in the treasury of any county,
37 city and county, incorporated city or town or municipal utility
38 district or flood control district," approved April 23, 1913, as
39 amended; all subject to the provisions and limitations of the next
40 preceding subsection relative to the disposition and use of funds,

1 interest rate, period of repayment, tax rate and mode of issuance.
2 The total amount of bonds or other evidence of indebtedness, in
3 the aggregate, which the district may issue and sell under the
4 authority of subsection 7a and of this subsection is limited to and
5 shall not exceed four million five hundred thousand dollars
6 (\$4,500,000).

7 8. To cause taxes to be levied and collected for the purpose of
8 paying any obligation of the district in the manner ~~hereinafter~~
9 provided *in this section*.

10 *8a. To impose a fee or charge, in compliance with Article XIII D*
11 *of the California Constitution, to pay the costs and expenses of*
12 *the district, and to carry out the objects or purposes of this act.*
13 *Any fee that is imposed shall be levied and collected together with,*
14 *and not separately from, taxes for county purposes, and the*
15 *revenues derived from the fees shall be paid into the county*
16 *treasury to the credit of the district, and the board of supervisors*
17 *may expend these funds to pay for costs described in this section.*

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

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

26 11. To remove, carry away and dispose of any rubbish, trash,
27 debris or other inconvenient matter that may be dislodged,
28 transported, conveyed or carried by means of, through, in, or along
29 the works and structures operated or maintained hereunder and
30 deposited upon the property of ~~said the~~ district or elsewhere.

31 12. To pay premiums on bonds of contractors required under
32 any contract ~~wherein~~ *if* the amount payable to the contractor
33 exceeds five million dollars (\$5,000,000); provided, that the
34 specifications in such cases shall specifically so provide and state
35 that the bidder shall not include in his *or her* bids the cost of
36 furnishing the required bonds.

37 13. To lease, sell or dispose of any property (or any interest
38 therein) whenever in the judgment of ~~said the~~ board of supervisors
39 ~~said the~~ property, or any interest therein or part thereof, is no longer
40 required for the purposes of ~~said the~~ district, or may be leased for

1 any purpose without interfering with the use of the same for the
2 purposes of ~~said the~~ district, and to pay any compensation received
3 therefor into the general fund of ~~said the~~ district and use the same
4 for the purposes of this act; provided, however, that nothing herein
5 shall authorize the board of supervisors or other governing body
6 of the district or any officer thereof to sell, lease or otherwise
7 dispose of any water, water right, reservoir space or storage
8 capacity or any interest or space therein except to public agencies
9 for recreational purposes when such use is not inconsistent with
10 the use thereof by the district for flood control and water
11 conservation purposes; or except as ~~hereinafter~~ provided by Section
12 17 of this act; provided, however, that ~~said the~~ district may grant
13 and convey to the United States of America, or to any federal
14 agency authorized to accept and pay for such land or interests in
15 land, all lands and interests in land, now owned or hereafter
16 acquired, lying within any channel, dam or reservoir site, improved
17 or constructed, in whole or in part, with federal funds, upon
18 payment to the district of sums equivalent to actual expenditures
19 made by it in acquiring the lands and interests in land so conveyed
20 and deemed reasonable by the Secretary of War and the Chief of
21 Engineers.

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

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

36 The ~~said~~ district by or through its board of supervisors, or other
37 board or officers at any time succeeding to the duties or functions
38 of its board of supervisors, is hereby authorized and empowered
39 to warrant and defend the title to all land and interests therein so
40 conveyed to the United States of America or to any such agency

1 and their respective assigns; to covenant and agree to indemnify
2 and keep indemnified and to hold and save harmless and exonerated
3 the United States of America or any such agency, to which such
4 lands or any interest therein are so conveyed by ~~said~~ *the* district,
5 from and against all demands, claims, liabilities, liens, actions,
6 suits, charges, costs, loss, damages, expenses and attorneys' fees
7 of whatsoever kind or nature, resulting from, arising out of or
8 occasioned by any defect or defects whatsoever in the title to any
9 such land or interest in land so conveyed by ~~said~~ *the* district; to
10 reimburse and save harmless and exonerated the United States of
11 America or any such agency for any and all amounts, paid, and
12 expenses incurred, in the compromise or settlement of any
13 demands, claims, liabilities, liens, actions, suits, charges, costs,
14 loss, damages, expenses and attorneys' fees of whatsoever kind
15 or nature, resulting from, arising out of or occasioned by any claim
16 to or defect or defects whatsoever in the title to any such land or
17 interests in land so conveyed by ~~said~~ *the* district; to pay all just
18 compensation, costs and expenses, which may be incurred in any
19 condemnation proceeding deemed necessary by the United States
20 of America or such agency, in order to perfect title to any such
21 land or interests in land, including without limitation all attorneys'
22 fees, court costs and fees, costs of abstracts and other evidences
23 of title, and all other costs, expenses or damages incurred or
24 suffered by the United States of America or such agency; and
25 consent is hereby given to the bringing of suit or other legal
26 proceedings against ~~said~~ *the* district by the United States of
27 America or such agency, as the case may be, in the proper district
28 court of the United States, upon any cause of action arising out of
29 any conveyance, contract or covenant made or entered into by ~~said~~
30 *the* district pursuant to the authority granted in this act, or to
31 enforce any claims, damages, loss or expenses arising out of or
32 resulting from any defect whatsoever in the title to such land or
33 any interest therein or any claims of others in or to such land or
34 interest therein.

35 SEC. 2. Section 16 of the Los Angeles County Flood Control
36 Act (Chapter 755 of the Statutes of 1915), as amended by Chapter
37 1276 of the Statutes of 1975, is amended to read:

38 SEC. 16. The ~~said~~ board of supervisors of ~~said~~ *the* district shall
39 have power to make and enforce all needful rules and regulations
40 for the administration and government of ~~said~~ *the* district, and to

1 perform all other acts necessary or proper to accomplish the
2 purposes of this act.

3 Said

4 The board of supervisors shall have power to do all work and to
5 construct and acquire all improvements necessary or useful for
6 carrying out any of the purposes of this act; and ~~said the~~ board of
7 supervisors shall have power to acquire either within or without
8 the boundaries of ~~said the~~ district, by purchase, donation or by
9 other lawful means in the name of ~~said the~~ district, from private
10 persons, corporations, reclamation districts, swampland districts,
11 levee districts, protection districts, drainage districts, irrigation
12 districts, or other public corporations or agencies or districts, all
13 lands, rights-of-way, easements, property or materials necessary
14 or useful for carrying out any of the purposes of this act; to make
15 contracts to indemnify or compensate any owner of land or other
16 property for any injury or damage necessarily caused by the
17 exercise of the powers conferred by this act, or arising out of the
18 use, taking or damage of any property, rights-of-way or easements,
19 for any of such purposes; to compensate any reclamation district,
20 protection district, drainage district, irrigation district or other
21 district, public corporation or agency or district, for any
22 right-of-way, easement or property taken over or acquired by ~~said~~
23 the Los Angeles County Flood Control District as a part of its work
24 of flood control or conservation or protection provided for in this
25 act, and any such reclamation district, protection district, drainage
26 district, irrigation district or other district or public corporation or
27 agency is hereby given power and authority to distribute such
28 compensation in any manner that may be now or hereafter allowed
29 by law; to maintain actions to restrain the doing of any act or thing
30 that may be injurious to carrying out any of the purposes of this
31 act by ~~said the~~ district, or that may interfere with the successful
32 execution of said work, or for damages for injury thereto; to do
33 any and all things necessary or incident to the powers hereby
34 granted, or to carry out any of the objects and purposes of this act;
35 to require, by appropriate legal proceedings, the owner or owners
36 of any bridge, trestle, wire line, viaduct, embankment or other
37 structure which shall be intersected, traversed or crossed by any
38 channel, ditch, bed of any stream, waterway, conduit or canal, so
39 to construct or alter the same as to offer a minimum of obstruction
40 to the free flow of water through or along any such channel, ditch,

1 bed of any stream, waterway, conduit or canal, and whenever
2 necessary in the case of existing works or structures, to require the
3 removal or alteration thereof for such purpose; provided, however,
4 that nothing in this act contained shall be deemed to authorize ~~said~~
5 *the* district in exercising any of its powers to take, damage or
6 destroy any property or to require the removal, relocation, alteration
7 or destruction of any bridge, railroad, wire line, pipeline, facility
8 or other structure unless just compensation therefor be first made,
9 in the manner and to the extent required by the Constitution of the
10 United States and the Constitution of California.

11 The board of supervisors of ~~said the~~ district is hereby vested
12 with full power to do all other acts or things necessary or useful
13 for the promotion of the work of the control of the flood *waters*
14 and storm waters of ~~said the~~ district, and to conserve such waters
15 for beneficial and useful purposes, and to protect from damage
16 from such storm *waters* or flood waters the harbors, waterways,
17 public highways and property in ~~said the~~ district; provided,
18 however, that nothing in this act contained shall be deemed to
19 authorize ~~said the~~ district, or any person or persons, to divert the
20 waters of any river, creek, stream, irrigation system, canal or ditch,
21 from its channel, to the detriment of any person or persons having
22 any interest in such river, creek, stream, irrigation system, canal
23 or ditch, or the waters thereof or therein, unless previous
24 compensation be first ascertained and paid therefor, under the laws
25 of this state authorizing the taking of private property for public
26 uses; and provided further, that nothing in this act contained shall
27 be construed as in any way affecting the plenary power of any
28 incorporated city, city and county, or town, or municipal or county
29 water district, to provide for a water supply of such public
30 corporation, or as affecting the absolute control of any properties
31 of such public corporations necessary for such water supply, and
32 nothing herein contained shall be construed as vesting any power
33 of control over such properties in ~~said the~~ Los Angeles County
34 Flood Control District, or in any officer thereof, or in any person
35 referred to in this act; and provided further, that nothing in this act
36 contained shall be deemed to authorize ~~said the~~ board of
37 supervisors to raise money for ~~said the~~ district by any method or
38 system other than that by the issuing of bonds, or the levying of a
39 tax ~~upon the assessed value of all the real property in said district,~~
40 *or the imposition of a fee or charge in compliance with Article*

- 1 *XIII D of the California Constitution*, in the manner in this act
- 2 provided, except from the sale and lease of its property as herein
- 3 provided.

O