

Summary of Changes to Santa Clara Valley Water District Act

	Summary of Changes (New or expanded authority is denoted with underlined text)	Location in AB 2483 (Coto) (A - 05/19/10)	Location in Existing District Act (Chapter 60, Water Code Appendix)	Comments
1	<p>Makes legislative findings regarding the need to revise the Santa Clara Valley Water District Act; deletes the existing Santa Clara Valley Water District Act (Chapter 60, Water Code Appendix) and creates a revised version of the Act in Water Code, Division 50 (commencing with Section 100000).</p>	SEC. 1, 2 and 3		<p>Moving the Act from the Water Code Appendix to the codified Water Code is part of the effort to modernize the Act and remove archaic language, and will make it easier to update the Act in the future.</p>
2	<p>Creates a better articulated document and more cohesive statutory approach by: grouping like concepts together; replacing confusing language with plain language that is understandable to the public; and eliminating redundancies and ambiguities.</p>	Throughout		<p>Reorganization of the District Act is intended to make the Act more transparent and user friendly and should not be deemed an indication of lack of existing authority.</p>

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3	<p>Creates General Provisions chapter that: establishes the District; declares that its jurisdiction consists of all of Santa Clara; makes findings and declarations of legislative intent; and provides that the repeal of the current District Act and enactment of a new Act shall not affect the validity of actions taken by the District prior to January 1, 2011.</p>	<p>SEC. 4, Chapter 1, Sec. 100000 – 100003</p>	<p>Sec. 1, 2, and 4 (a), (b) and (c)</p>	<p>Summary of May 3 and May 20 amendments:</p> <p>Changes reference to “water and resource management” to “integrated water management” to address concerns that the bill could result in an expansion of the District’s authority beyond water resource issues. This change applies throughout the bill.</p> <p>Adds succession language to address concerns that repeal of the existing Act could create legal uncertainties regarding the continued validity of prior District actions.</p> <p>Revises the findings and declarations section and adds legislative intent language to address concerns that the bill could infringe on the existing rights or authorities of other entities. See below for a summary of the amendments.</p>

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4	<p>Creates separate sections for findings and declarations and statements of legislative intent. Makes findings regarding: the state's interest in securing comprehensive integrated water management for the common benefit of water users within the District; the need for changes to the Act; the importance of an integrated approach to water management; the need for collaboration among all levels of government, water retailers, and the public; the value of clearly delineating the District's authority as a means of increasing transparency and efficiency; the need for the District to conjunctively manage multiple water sources, without infringing on existing water rights or the authorities of other agencies; and the need to encourage conservation and ensure water shortages are borne equitably by all. Adds to existing list of intentions: increase accountability; strengthen environmental commitments; improve water quality protection and sustainability; address water management issues in an integrated manner; sustain natural resources through watershed stewardship; and respond to changing conditions. Provides the Act does not: a) conflict with the State Constitution or existing water rights, b) provide the District with regulatory authority that conflicts with that of state agencies; c) allow the District to require conservation measures that conflict with those imposed by other local entities; d) or allow the District to unilaterally impose measures on others to mitigate climate change or increase renewable energy.</p>	<p>Sec. 100002(b), (c) and (d)</p>	<p>Sec. 4(a) and (b)</p>	<p>Summary of May 3 and May 20 amendments:</p> <p>Adds findings regarding the need for stakeholder involvement in decision making; the need to clearly delineate the District's authority; and the need to encourage conservation and ensure shortages are borne equitably by all.</p> <p>Clarifies that some of the water supplies in Santa Clara County are owned or under the control of other entities, and that the District may conjunctively manage the water under its authority, but may not infringe on established water rights or the authorities of other entities.</p> <p>Clarifies that the bill does not provide the District with regulatory authority that conflicts with that already exerted by state agencies.</p> <p>Clarifies that that the District may take actions to mitigate climate change or increase renewable energy itself, but cannot impose such requirements on others.</p>

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5	Creates separate chapter for definitions and expands the number of terms defined in the Act.	Chapter 2, Sec. 100020 – 100021.31	Sec. 26.1 (terms related to groundwater charges)	<p>Makes the Act more transparent and user friendly.</p> <p>Summary of May 3 and May 20 amendments:</p> <p>Revises the definition of abandoned well to accommodate situations in which agencies keep wells off-line for system backup purposes or farmers take wells off-line due to land fallowing.</p> <p>Adds definition of groundwater overdraft that is tied to a five-year reference period to ensure that normal variations in water balance do not trigger measures aimed at addressing overdraft.</p> <p>Adds definition of municipal water corporation to address concerns that the bill could allow the District to acquire and hold stock in a water company or corporation that is regulated by the PUC.</p> <p>Clarifies definition of conjunctive management and defines additional groundwater-related terms.</p>

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6	Creates separate chapter for Purposes and Powers that provides a high-level description of the District's authority and enumerates specific powers by issue area. See below for description of changes by section.	Chapter 3, Sec. 100050 - 100052	Sec. 4 (c), 5, 6, and 6.1	
7	Creates separate section for purposes. Clarifies that purposes specifically include: protection, management and improvement of water quality; protection against land subsidence; planning for and responding to climate change; and encouraging integration of energy and water policies to provide multiple benefits.	Chapter 3, Sec. 100050	Sec. 4(c)	Provides a high-level description of the District's existing authority.
8	Groups procedural powers into a single subsection.	Chapter 3, Sec. 100051(a)	Secs. 5.1, 5.2, 5.3, 5.7, 6.8, 5.12, 5.13, and 9	No substantive changes.

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9	<p>Groups powers related to acquisition of property, eminent domain, and construction into a single subsection. Clarifies that powers include the ability to participate in the market of credits or other benefits related to reduction of environmental impacts or improved integrated regional water management.</p>	<p>Chapter 3, Sec. 100051(b)</p>	<p>Secs. 5.4, 5.5, 5.6, 5.7, 5.16, 5.17 and 6</p>	<p>Adapts existing authority to new reality. Does not expand eminent domain authority.</p> <p>Summary of May 3 and May 20 amendments:</p> <p>Clarifies that entry on private property will be done only with the permission of a land owner or with a Court-ordered inspection warrant.</p>

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10	<p>Groups powers related to acquisition, storage and treatment of water into a single subsection. Adds reference to invasive species as a potential danger to water resources (Section 100051(c)(5)) and clarifies that current and long-term water reliability needs include short-term demands during critically dry periods, regulatory shortages, emergencies, or other interruptions of normal supplies (Section 100051(c)(7)). <u>Adds the power to regulate the transfer of water from, or between, District charge zones.</u> Provides that regulations shall permit District approved interoperability and emergency response efforts.</p>	Chapter 3, Sec. 100051(c)	Secs. 5.4, 5.5,, 5.7 and 9	<p>Strengthens District's ability to provide local control of water resources within the County. Currently the District has the power to regulate the unlawful exportation of water from the District, this amendment clarifies District's ability to proactively regulate exportation of water to prevent harm rather than react to it. Also adds the ability to regulate transfers between zones.</p> <p>Summary of May 3 and May 20 amendments:</p> <p>Deletes reference to "harm to natural resources".</p> <p>Adds language to recognize interoperability and emergency response efforts that involve the transfer of water from or between zones.</p>

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11	Groups powers related to protection from flooding into a single subsection Clarifies that methods the District may employ for containing or conveying floodwaters includes nonstructural methods.	Chapter 3, Sec. 100051(d)	Secs. 5.4, 5.6, 5.15 and 9	No substantive changes.
12	Groups powers related to protection of water quality into a single subsection. Clarifies conditions under which the District may expend funds for the prevention, abatement or containment of threatened or existing water contamination or pollution. <u>Increases the range of contamination circumstances for which the District can hold a contaminator or polluter liable for the costs of cleanup. Adds the power to address land subsidence based upon credible, fact-based scientific or engineering evidence that water quality is in danger of being adversely impacted.</u>	Chapter 3, Sec. 100051(e)	Secs. 5.3, 5.8 and 5.18.	Strengthens the District's ability to provide local control of water resources within the County. Protects District ratepayers by providing expanded authority to recover costs from polluters and additional tools to protect the sustainability of the groundwater basin. Summary of May 3 and May 20 amendments: Limits the circumstances in which the District may regulate groundwater extractions as a means of protecting groundwater quality, and provides that any such regulation must be based on scientific or engineering evidence.

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13	Groups powers related to watershed stewardship into a single subsection. Clarifies that watershed stewardship powers include: provision of information, resources and consultation to agencies with land use decision-making authority	Chapter 3, Sec. 100051(f)	Secs. 4(c)(7), 4(c)(8), 5.5 and 9	Description of powers is consistent with SB 449 (Sher, 2001), which expanded the District's purposes to include enhancement, protection and restoration of streams, riparian corridors, and natural resources in connection with carrying out the other purposes of the Act.
14	Groups financial powers into single subsection. Clarifies that recoverable costs include those related to mitigation and environmental enhancement and restoration.	Chapter 3, Sec. 100051(g)	Secs. 5.9, 5.10, 5.11, 5.14 and 26.	Updated to reflect post CEQA reality and incorporation of environmental stewardship as integral part of the District mission.

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15	Creates separate section clarifying the absence of District authority over land use planning.	Chapter 3, Sec. 100053		Summary of May 3 and May 20 amendments: Clarifies that the District's role in land use planning decisions is limited to the provision of information and coordination for planning purposes.
16	Creates separate chapter for provisions related to Board of Directors and Governance. States that the Board has the discretion to uniformly authorize full or partial payment of ballot statements in order to encourage greater participation in the political process (Sec. 100062). Provides that to the extent allowed by state law, at least one advisory body established by the Board shall include a water utility regulated by the Public Utilities Commission. Adds formal open public process that the District must follow when establishing rules or regulations, including a requirement that the rules or regulations must be based on credible, fact-based science or engineering information. (Sec. 100072). Adds formal administrative appeals process for persons objecting to action taken on a District permit, or that disagree with an action taken by the District pursuant to an ordinance. (Sec. 100073).	Chapter 4, Sec. 100060 - 100079	Secs. 7, 7.1, 7.2, 7.3, 7.4, 8, 9, 12.5, 30, 32, 33 and 35.	Reflects provisions of AB 466, passed in 2009. Updates language to reflect current law and adds cross-references to the Government Code. Summary of May 3 and May 20 amendments: Adds a formal, public process that the District must follow when establishing rules or regulations, and a robust administrative appeals process based loosely on the state Administrative Procedures Act. Adds a requirement that at least one Board advisory committee include a representative from a regulated water utility.

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17	<p>Creates separate chapter for provisions related to the creation of zones within the District and adds: additional provisions that must be included in the resolution to establish a zone (Sec. 100080(c)(1)); a process through which voters may petition for the creation of a zone (Sec. 100080(c)(2)); and, additional public noticing requirements (Sec. 100080(c)(3)).</p>	<p>Chapter 5, Sec. 100080</p>	<p>Secs. 3, 12 and 26.2</p>	<p>Provides clearer noticing to the public regarding the creation of zones and greater opportunity for public input.</p>

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18	<p>Creates separate chapter for financial provisions. Adds requirement for quarterly financial reports to the Board (Sec. 100090). Moves the date for the annual public hearing on the budget from June 15 to June 1. Removes obsolete provisions, adds cross-references, and conforms the Act to current law.</p>	<p>Chapter 6, Sec. 100090 - 100114</p>	<p>Secs. 13, 13.2, 14 – 22, 24, 25, 25.1, 25.2, 26.5 and 25.6</p>	<p>Improves transparency and accountability, removes obsolete provisions and conforms Act to current law.</p> <p>Summary of May 3 and May 20 amendments:</p> <p>Moves the date for annual hearing on the budget to provide more time for public input.</p> <p>Replaces specific language on financial reserves with more general language.</p>

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19	<p>Creates separate chapter for provisions related to groundwater and groundwater management charges. Adds to the list of actions the District may take to protect groundwater supplies: (1) require conservation practices and measures, including the imposition of rate structures to promote water conservation; and, (2) regulate groundwater extractions to the extent necessary to prevent groundwater overdraft and minimize the risk of subsidence. Provides that a water retailer or other entity that has adopted and implemented an urban water management plan or an equivalent conservation plan that meets statewide requirements shall not be subject to additional conservation requirements. Clarifies that the activities for which groundwater management charges may be used include the management of supplies for the long-term benefit of the District, including demand management activities and watershed stewardship activities related to the preservation and improvement of groundwater supplies for the zone in which the charge is imposed. Clarifies groundwater management charge setting process and imposes a majority protest requirement consistent with the protest provisions contained in Proposition 218.</p>	Chapter 7, Sec. 100120 – 100132	Secs. 5.5, 26.1, 26.3, 26.4, 26.5, 26.6, 26.7, 26.8, 26.9, 26.10 and 26.11	<p>Strengthens the District's ability to provide local control of water resources within the County. Makes the Act consistent with State water use efficiency goals. Makes groundwater charge setting process more transparent and gives those impacted more say in the setting of charges.</p> <p>Summary of May 3 and May 20 amendments:</p> <p>Limits the District's ability to regulate groundwater extractions to the extent necessary to prevent overdraft and subsidence.</p> <p>Limits the District's ability to require additional conservation measures to those situations where no other effective efforts exist, unless the measures are required pursuant to state or federal law.</p> <p>Adds additional references to compliance with Article XIII D of the Constitution (Proposition 218).</p>

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20	Specifies that the basis for the historic authority to charge different rates for agricultural water is in recognition of the public benefits and lower costs associated with agricultural water use including: preservation of open space and other environmental benefits; increased recharge rates and return flows; greater operational flexibility; reduced service and infrastructure costs; and other factors that provide the basis for a differential rate.	Chapter 8, Sec. 100123	Sec. 26.7	Provides legislative basis for establishing lower rates for agricultural water that is consistent with Article XIID of the Constitution (Proposition 218). Summary of May 3 and May 20 amendments: Adds additional language on factors associated with agricultural water use that provides the basis for a differential rate for agricultural water.
21	Creates separate chapter for provisions related to right-of-way, acquisition and sale of property.	Chapter 8, Sec. 100140 – 100143	Secs. 28 and 31	No substantive changes.

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22	Creates separate chapter for provisions related to planning and approval of capital projects. Adds statement that it is the intent to ensure: (1) the public is informed about District projects and funding sources and has adequate opportunities for input; and (2) environmental considerations are included at the earliest possible point in the planning process. Also updates noticing requirements for public hearing and reduces threshold for a written protest from a majority to one-third of registered voters in a zone.	Chapter 9, Sec. 100150 – 100153	Secs. 10, 11 and 12	Adds transparency by creating improved noticing requirements and opportunities for public input.
23	Creates separate chapter for provisions related to enforcement. Clarifies that water contamination hazards are not limited to abandoned or unused wells.	Chapter 10, Sec. 100160 – 100167	Secs. 6.1, 26.4, 26.9, 26.11, 26.12, 26.13, 26.14, 26.15, 26.16, 26.17	Protects District ratepayers and the sustainability of the groundwater basin by broadening the definition of what constitutes an actionable water quality hazard.