

Date of Hearing: September 12, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1180 (Holden) – As Amended July 3, 2017

SUBJECT: Los Angeles County Flood Control District: taxes, fees, and charges.

SUMMARY: Authorizes the Los Angeles County Flood Control District (District) to levy a special tax to manage stormwater.

The Senate amendments delete the Assembly version of this bill, and instead:

- 1) Authorize the District to levy a tax, subject to the California Constitution Article XIII C (voter approval for local tax levy), to fund projects and programs to increase stormwater capture and reduce stormwater runoff pollution.
- 2) Authorize the revenues from a tax, fee, or charge to fund programs and projects that provide 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 increase public access to rivers, lakes, and streams.
- 3) Require the District to allocate revenues from any tax pursuant to the allocation formula in existing law.
- 4) Modify the allocation formula for the District's revenues, as follows:
 - a) 10% to the District to implement and administer eligible stormwater projects and programs, as specified in 2), above, and to pay the District's costs for levying and collecting the fee and distributing revenues;
 - b) 40% to Los Angeles County and to the cities within the District, divided proportionally among each jurisdiction, to be expended for eligible stormwater projects and programs; and,
 - c) 50% to pay for the implementation, operation and maintenance, and administration of watershed-based regional projects and programs, including those identified in stormwater resource plans, and watershed management programs developed pursuant to waste discharge requirements for municipal separate storm sewer system (MS4) discharges, and deletes the proportional allocation to nine watershed authority groups.
- 5) Require the District's governing board, the Los Angeles County Board of Supervisors (Board of Supervisors), to adopt an ordinance to establish criteria and procedures to implement the allocation of any tax, fee, or charge proceeds.
- 6) Make other technical and conforming changes.

EXISTING LAW:

- 1) Establishes the District to provide for the control and conservation of flood, storm and other waste waters.
- 2) Authorizes the District to levy ad valorem taxes or assessments or property related fees, in compliance with Article XIII D of the Constitution.
- 3) Requires the District to allocate revenues, as follows:
 - a) 10% to the District to implement and administer water quality programs and to pay the District's costs for levying and collecting the fee and distributing revenues;
 - b) 40% to Los Angeles County and to the cities within the District, divided proportionally among each jurisdiction, to be expended for water quality improvement programs; and,
 - c) 50% to nine watershed authority groups that the District must authorize by ordinance, divided proportionally among each watershed, to implement collaborative water quality improvement plans or programs in the watersheds.
- 4) Requires nine watershed authority groups to be established under the Joint Exercise of Powers Act for the following watersheds: Ballona Creek, Dominguez Channel, Upper Los Angeles River, Lower Los Angeles River, Rio Hondo, Upper San Gabriel River, Lower San Gabriel River, Santa Clara River, and Santa Monica Bay.

FISCAL EFFECT: None

COMMENTS:

- 1) **Background.** The District is a special act special district that provides flood control and water quality services to 85 cities and most of the unincorporated area in Los Angeles County, covering 3,000 square miles and 2.1 million parcels of land [SB 459 (Benedict and Carr), Chapter 755, Statutes of 1915]. The District is governed by the Board of Supervisors.

Existing law authorizes the District to levy ad valorem taxes to repay indebtedness, as well as assessments. In 2010, the Legislature also authorized the District to levy a fee or charge anywhere within the District's territory, in compliance with the California Constitution Article XIII D, to pay the costs and expenses of carrying out projects and providing services to improve water quality and reduce stormwater and urban runoff pollution [AB 2554 (Brownley), Chapter 602, Statutes of 2010]. AB 2554 (Brownley) established an allocation formula for fee revenue and required nine watershed authority groups to be established under the Joint Exercise of Powers Act.

Los Angeles County has not successfully used the authority provided by AB 2554. In 2012, the Board of Supervisors began an effort to levy a fee as authorized by AB 2554. The proposed fee, "Clean Water, Clean Beaches" measure, would have raised \$295 million per year to fund stormwater management, based on the amount of stormwater runoff from each parcel in the county. However, following two protest hearings in 2013, the Board of Supervisors declined to take further steps towards adopting the fee. Because no fee was

levied, the nine watershed authority groups were never formed because they were intended to implement projects funded by AB 2554 fee revenues.

- 2) **Bill Summary.** This bill authorizes the District to levy a special tax, subject to the applicable provisions of the California Constitution Article XIII C, to fund projects and programs to increase stormwater capture and reduce stormwater runoff pollution. This bill also expands the eligible uses of proceeds from any tax, fee, or charge, which may include projects providing multiple benefits that increase water supply, improve water quality, or provide appropriate community enhancements. The bill retains the allocation of revenues established in AB 2554 with some modifications to reflect the expansion of uses of the revenue to fund stormwater projects and programs and to delete the provisions related to the nine watershed joint power authority groups. This bill is sponsored by Los Angeles County.
- 3) **Author's Statement.** According to the author, this bill "would amend the LA County Flood Control Act to authorize the [District] to levy a tax to pay for projects and programs to increase stormwater capture or reduce stormwater and urban runoff pollution. This would include projects that provide multiple benefits that increase water supply, improve water quality, provide community enhancements, such as the greening of schools, parks and wetlands, and increased public access to rivers, lakes and streams, including the LA and San Gabriel Rivers."
- 4) **Financing Water Infrastructure.** Local governments in California provide most water related services in the state, which include water service, sewer service, flood control, and stormwater management. A Public Policy Institute of California (PPIC) report, *Paying for Water in California*, outlines four sources of funding currently used for water in California:
 - a) Fees, which include water and waste water bills, property assessments or fees, developer or connection fees, and permitting fees;
 - b) Taxes, which include both general and special taxes, including parcel taxes;
 - c) Fines and penalties, which include excessive pumping on groundwater or directly to customers in violation of rationing restrictions during drought emergencies; and,
 - d) Bonds, which include general obligation and revenue bonds. Local agencies frequently point to the series of constitutional reforms, Proposition 13 (1978), Proposition 218 (1996), and Proposition 26 (2010), that have made it increasingly more difficult to generate the necessary revenue to fund the costs of providing water and other essential services.

Local governments face several barriers to funding for stormwater and dry weather runoff projects due to the constitutional requirements for special taxes, benefit assessments, and property-related fees. Many of the local governments that operate MS4 (Municipal Separate Storm System) systems differ from water and wastewater utilities that existed prior to the passage of Proposition 218, which have in place service fees. On the other hand, many stormwater programs in cities and counties are funded by the general fund, primarily through property and local sales taxes. As regulatory burdens continue to increase, financially strapped local governments are forced to examine alternative funding mechanisms and

regional strategies to address MS4 costs. For example, the costs in Los Angeles County alone are cited to be over \$20 billion dollars.

In light of these barriers, this Committee has heard a number of bills seeking to aide local government faced with financing the increasing costs of managing stormwater and urban runoff. These bills included proposed constitutional changes, clarifying definitions in the Proposition 218 Omnibus Implementation Act, and granting authority to additional special districts to treat and manage stormwater.

- 5) **Support Arguments.** Los Angeles County states, "While the [District] has the authority to levy a fee to pay for water quality projects, AB 1180 is necessary to expand the [District's] authority to levy a tax, should the Board place a measure on the ballot for voter approval. The County's Department of Public Works notes that tax revenues would be allocated to municipalities to develop stormwater projects and programs and also would fund regional, watershed-based projects and programs."
- 6) **Opposition Arguments.** The Construction Industry Coalition on Water Quality argues, "Members of our industry have been working with the County of Los Angeles for four years to craft a ballot measure that will achieve real stormwater pollution reductions. We object to this last-minute effort to grant the County authority without input from the stakeholders who will be writing the checks to pay for this measure."

REGISTERED SUPPORT / OPPOSITION:

Support

County of Los Angeles [SPONSOR]
 Amigos de los Rios
 Asian Pacific Policy and Planning Council
 Bike San Gabriel Valley
 Cities of Lakewood, Malibu, Rolling Hills Estates, Pasadena, and South Pasadena
 Climate Resolve
 Community Hiking Club
 Consejo de Federaciones Mexicanas
 Cordoba Corporation
 Day One
 Food & Water Watch
 Heal the Bay
 LAANE (Los Angeles Alliance for a New Economy)
 Los Angeles Beautification Team
 Los Angeles County Division of the League of California Cities
 Los Angeles Waterkeeper
 Mia Lehrer + Associates
 National Parks Conservation Association
 San Gabriel Mountains Forever
 The Nature Conservancy
 The River Project
 The Trust for Public Land
 TreePeople

Opposition

Arroyo Seco Foundation
Building Owners and Managers of Greater Los Angeles (BOMA/GLA)
California Taxpayers Association
City of Glendora (unless amended)
Construction Industry Coalition on Water Quality
Howard Jarvis Taxpayers Association
Los Angeles County Business Federation (BizFed) (unless amended)
Los Angeles-Ventura Chapter of the Building Industry Association of Southern California, Inc.
(BIA-LAV) (unless amended)
NAIPO (Commercial Real Estate Development Association)
Pasadena Chamber of Commerce
The California Railroad Industry

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