

Date of Hearing: March 29, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 759 (Grayson) – As Introduced February 13, 2023

SUBJECT: Sanitary districts.

SUMMARY: Makes changes to the requirements dictating how sanitary districts expend funds. Specifically, **this bill:**

- 1) Repeals the following requirements:
 - a) That the treasurer pay out money of the district only upon written order of the board, signed by the president and countersigned by the secretary.
 - b) The order shall specify the name of the person to whom the money is paid, the fund from which it is to be paid, and shall state generally the purpose for which the payment is to be made.
 - c) The order shall be entered in the minutes of the board.
- 2) Specifies that the treasurer, or other person or persons that are authorized by the board, shall draw checks or warrants to pay demands when demands have been approved in the manner prescribed by the board.
- 3) Removes the following requirements for when the district board has elected to disburse funds of the district:
 - a) Funds shall be withdrawn only by written order of the district board and signed by the president and secretary.
 - b) The order shall specify the name of the payee, the fund from which it is to be paid and state generally the purpose for which payment is to be made.
 - c) Such order shall be entered in the minutes of the Board.
- 4) Specifies that, for when the district board has elected to disburse funds of the district, the district board shall appoint a treasurer who shall be responsible for the deposit and withdrawal of funds of the district, in the manner prescribed by the board.

EXISTING LAW:

- 1) Establishes the Sanitary District Act and prescribes organization, operations, management, and other powers and duties of sanitary districts. [Health and Safety Code (HSC) § 6400 et. seq.]
- 2) Defines “treasurer” as the treasurer of the county or counties in which a district is located. (HSC § 6405)

- 3) Specifies that, in a fund called the “running expense fund of _____ Sanitary Districts” the treasurer shall place and keep the money levied by the board for that fund. (HSC § 6792)
- 4) Requires the treasurer to pay out money of the district only upon written order of the board, signed by the president and countersigned by the secretary. The order shall specify the name of the person to whom the money is to be paid, the fund from which it is to be paid, and shall state generally the purpose for which the payment is to be made. (HSC § 6794)
- 5) Requires the treasurer to keep the order as the voucher, and keep a specific account of receipts and disbursements for the district. (HSC § 6795)
- 6) Authorizes the board, as an alternative to the functions of the treasurer, to disburse funds of the district. Such election shall be made by resolution of the board and the filing of a certified copy thereof with the treasurer. The treasurer shall thereupon and thereafter deliver to the district all funds of the district. Such funds shall be deposited by the board in a bank or banks, or savings and loan association or savings and loan associations, approved for deposit of public funds and shall be withdrawn only by written order of the district board, signed by the president and secretary. The order shall specify the name of the payee, the fund from which it is to be paid and state generally the purpose for which payment is to be made. Such order shall be entered in the minutes of the board. The district board shall appoint a treasurer who shall be responsible for the deposit and withdrawal of funds of the district. The treasurer shall deposit with the district, prior to October 1st of each year, a surety bond in the annual amount fixed by the district board. The deposit and withdrawal of funds of the district shall thereafter be subject existing law. (HSC § 6801)

FISCAL EFFECT: None.

COMMENTS:

- 1) **Sanitary Districts.** According to the California Association of Sanitation Agencies, there are approximately 77 sanitary districts in California. Most sanitary districts have boards of directors composed of five members, directly elected by voters throughout the district. A sanitary district may acquire, plan, construct, reconstruct, alter, enlarge, lay, renew, replace, maintain, and operate garbage dumpsites and garbage collection and disposal systems, sewers, drains, septic tanks, and sewerage collection, outfall, treatment works and other sanitary disposal systems, and storm water drains and storm water collection, outfall and disposal systems, and water recycling and distribution systems, among other authorizations.
- 2) **District Funds.** Each independent special district varies in size and type of service it provides. Some independent special districts’ governing boards designate their own treasurers. Other districts use the county treasurer as the district’s treasurer. For special districts that use the county treasurer, the process for paying bills can be lengthy and expensive. Sanitary districts were required to utilize the county until 1959. AB 547 (Masterson and Waldie), Chapter 160, Statutes of 1959 allowed a sanitary district board, by resolution, filed with the county treasurer, to disburse district funds. The bill also required that the county treasurer deliver all district funds to the district for deposit in a bank approved for the deposit of public funds, to be withdrawn only by written order of the district board.

The author of AB 547 wrote to the governor that the bill, “provides an alternative system similar to that in the Community Services District Act for the district. At present, districts of large size with a great volume of warrant payments must travel to the County Auditor to have each warrant issued. The Auditor has no control over disbursements except to determine if funds are available. This bill permits the district to deposit and withdraw funds in a local institution approved for deposit of public funds.”

- 3) **Bill Summary and Author’s Statement.** Existing law generally requires expenditures of district funds to be made upon written order of the sanitary district’s board. This bill authorizes funds to be expended in a manner prescribed by the district’s board. The California Association of Sanitation Agencies is the sponsor of this bill.

According to the author, “AB 759 is a simple bill that would allow the Board of a Sanitation District to establish their own protocols to authorize funds that better reflect current business practices. This bill updates outdated provisions of the Sanitary District Act of 1939 which currently requires the Board President of a Sanitation District to approve check registers at a Board Meeting before a payment can be dispersed. In most cases, the check registers being ‘approved’ at meetings are for payments that have already been issued. Having to go through these extra steps impede the ability to maintain a reasonable flow of public business. This is a simple governance approach that would cut through red tape and allow district operations to run more efficiently, and would bring sanitation districts in parity with other local agencies and special districts who have already been granted the same authority.”

- 4) **Policy Consideration.** Many laws governing sanitary districts have not been updated in decades and did not anticipate changes such as electronic payments and the Internet. While this bill seeks to bring a portion of the Sanitary District Act into the 21st century, the potential for fraud and abuse still exists. Each sanitary district varies in size and the services they provide. The budgeting practices also vary from district to district, and supporters contend that any new authority to expend funds should be workable within an approved budget regardless of differing budget practices. Board approval of deposits, withdrawals, and expenditure of funds preserves transparency and accountability. However, in a time where payments frequently need to be made quickly, and often electronically, some sanitary districts proclaim that the modern business climate requires sanitary districts to issue payments in a more timely manner. Waiting to issue payments until after a district board meets impedes the ability to maintain the efficient flow of public business.

While some types of local agencies have more flexibility, many either require board approval to expend funds, or are authorized to expend funds without board approval if the expenditure conforms to the approved agency budget. These requirements allow for limited discretion but ensure a layer of board oversight if an expenditure is outside of the budgetary parameters already approved by the board. The bill instead allows sanitary districts to expend funds in a manner prescribed by the board, potentially removing any requirement that the board approve expenditures. The Committee may wish to consider if this bill contains sufficient protections to ensure the responsible expenditure of taxpayer funds.

- 5) **Committee Amendments.** In response to the policy consideration above, the Committee may wish amend the bill as follows:

~~6794. The treasurer, or other person or persons that are authorized by the board, shall draw checks or warrants to pay demands when demands have been approved in the manner prescribed by the board.~~

6794. (a) The treasurer, or other person or persons that are authorized by the board, shall draw checks or warrants to pay demands when demands have been approved by the board and signed by the president and secretary.

(b) Notwithstanding subdivision (a), the board may adopt a procedure that provides for checks or warrants to pay claims and demands without approval by the board of directors before payment if the district treasurer determines that the demands are payable within the district's approved budget. The procedure shall contain appropriate internal controls with measures to prevent fraud and ensure accountability, and which are necessary for financial reporting in conformance with generally accepted accounting principles. Demands so paid shall be presented to the board of directors at the next regular meeting for review. Demands exceeding the district's approved budget shall be subject to board approval.

6801. (a) As an alternative to the functions of the treasurer, the district board may elect to disburse funds of the district. Such election shall be made by resolution of the board and the filing of a certified copy thereof with the treasurer. The treasurer shall thereupon and thereafter deliver to the district all funds of the district. Such funds shall be deposited by the board in a bank or banks, or savings and loan association or savings and loan associations, approved for deposit of public funds. ~~The district board shall appoint a treasurer who shall be responsible for the deposit and withdrawal of funds of the district, in the manner prescribed by the board.~~ The treasurer shall deposit with the district, prior to October 1st of each year, a surety bond in the annual amount fixed by the district board. The deposit and withdrawal of funds of the district shall thereafter be subject to the provisions of Article 2 (commencing at Section 53630), Chapter 4, Part 1, Division 2, Title 5, of the Government Code. **The district board shall appoint a district treasurer who shall be responsible for the deposit and withdrawal of funds of the district.**

(b) Funds shall be withdrawn by the district treasurer only by written order of the district board, signed by the president and secretary.

(c) Notwithstanding subdivision (b), the board may adopt a procedure that provides for checks or warrants to pay claims and demands without approval by the board of directors before payment if the district treasurer determines that the demands are payable within the district's approved budget. The procedure shall contain appropriate internal controls with measures to prevent fraud and ensure accountability, and which are necessary for financial reporting in conformance with generally accepted accounting principles. Demands so paid shall be presented to the board of directors at the next regular meeting for review. Demands exceeding the district's approved budget shall be subject to board approval.

- 6) **Arguments in Support.** According to the Central Contra Costa Sanitary District, "This bill would update the Sanitary District Act of 1939 to modernize existing statutory accounting practices that require Sanitary Districts to submit their check register for approval by the District Board President at each Board meeting. Instead, the bill would give discretion to the Board of a Sanitary District to establish protocols to authorize funds. Central San, a wastewater utility, collects and cleans more than 13 billion gallons of wastewater every year and serves nearly half a million residents and more than 3,000 businesses in the East San Francisco Bay Area. Within its 146 square mile service area, Central San operates a 54 million-gallon-per-day capacity treatment plant, 18 pumping stations, over 1,500 miles of sewer lines, a household hazardous waste collection facility, a laboratory, and provides both

commercial and residential recycled water programs.

“The existing approval requirement was enacted in 1939. In practice, it provides minimal oversight as the Board approval is usually performed in retrospect for checks that have already been issued. The modern business climate requires Sanitary Districts to issue payments in a timely manner. Waiting to issue payments until after the Board meets and approves the register impedes the agency’s ability to maintain the efficient flow of public business. AB 759 would update the statute to reflect reasonable business procedures for modern utilities and create parity with other special districts that provide similar services. This proposed change to the Sanitary District Act has previously been afforded to a variety of similar special districts and local agencies by the Legislature.”

7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Sanitation Agencies [SPONSOR]
Association of California Water Agencies
Castro Valley Sanitary District
Central Contra Costa Sanitary District

Opposition

None on file

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