

Date of Hearing: May 3, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 939 (Pellerin) – As Amended April 13, 2023

**SUBJECT:** Santa Clara Valley Water District.

**SUMMARY:** Makes numerous changes to the Santa Clara Valley Water District (Valley Water) Act. Specifically, **this bill:**

- 1) Provides that Valley Water may utilize ad valorem taxes or assessments to pay for the issuance of bonds, as specified.
- 2) Authorizes revenue bonds issued and sold by Valley Water to be payable from the net revenues of the water system, constituting water revenues remaining after the payment of the operation and maintenance costs of the water system, as specified.
- 3) Removes the \$8 million limit on the short-term debt Valley Water can authorize without holding an election. Instead, Valley Water would be limited to 85% of the estimated amount of the revenues, charges, taxes, and assessments of or allocable to the district that will be available in that fiscal year for payment of short-term notes and the interest thereon, as specified.
- 4) Extends, indefinitely, the provision that specifies that no ordinance adopted to provide compensation to a director shall authorize compensation for more than a total of 15 days in any calendar month, specified.
- 5) Deletes obsolete provisions and makes numerous other technical and conforming changes.
- 6) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique need of the Valley Water to provide water services and flood protection within the County of Santa Clara.

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Author's Statement.** According to the author, "AB 939 updates Valley Water's financing mechanisms to reduce the cost of public borrowing for critical infrastructure projects. This bill authorizes the elected Valley Water Board of Directors to propose general obligation bonds paid for by an ad valorem property tax approved by 2/3 of the voters. G.O. bonds provide low-cost borrowing and can help to keep drinking water affordable for disadvantaged communities. Other financial reforms ensure that the public water supply system is protected in times of financial stress and set the agency's short-term debt limit at the same stand level available to other California public agencies. Finally, this bill removes a sunset date so the seven-member elected Board of Directors per diem compensation remains at its current level authorized by law, helping to keep service on the Valley Water Board accessible to the region's diverse disadvantaged communities.

“Over time, these reforms will save rate payers and taxpayers tens of millions in reduced financing costs for critical water supply, flood protection, and environmental restoration projects, while also helping to keep disadvantaged communities represented in Valley Water’s governance.”

- 2) **Santa Clara Valley Water District.** Valley Water is the primary water resources agency for Santa Clara County. First formed as the Santa Clara Valley Water Conservation District in 1929, it now acts as the County's water wholesaler and the steward for its streams, creeks, underground aquifers, and district-built reservoirs. According to Valley Water, “Valley Water is the regional water supply, flood risk reduction, groundwater management, and stream stewardship agency for the 2 million people and thousands of job-creating businesses of Santa Clara County. The only water utility in California that is both a state and federal water contractor, our agency is engaged in water policy at the local, regional, state, and federal levels. Valley Water manages 10 reservoirs and dams, 3 water treatment plants, the largest advanced purified water facility in Northern California, 400 acres of groundwater recharge ponds, and 2 large groundwater basins. The agency constructs and maintains the region’s water supply and flood risk reduction infrastructure, managing 294 miles of creeks and streams.”
- 3) **Board Member Meetings.** Special district board member compensation is traditionally dictated by the enabling act of that type of special district. Due to the differing enabling acts, the amount that each type of special district can compensate its board members varies. The most common compensation for special districts' board members are stipends. Many districts pay stipends to their board members for attending a meeting or performing a day's work, following statutory schedules. Most types of special districts can compensate board members \$100 or more per meeting, while others are prohibited from providing any compensation.

A local agency may generally compensate members of its legislative body for attending specified events [AB 1234 (Salinas), Chapter 700, Statutes of 2005]:

- a) A meeting of the legislative body.
- b) A meeting of an advisory body.
- c) A conference or educational activity that complies with the Ralph M. Brown Act, including ethics training.
- d) Other events, but only if the governing body has adopted a written policy specifying those other occasions.

Districts that are allowed to provide compensation are usually limited to doing so for a maximum number of meetings per calendar month. Most special districts that perform some type of water service, whether it be flood control, drinking water, or irrigation, can compensate their board members up to \$100 per day for a maximum of 10 days per calendar month. In addition, many, but not all, districts may also increase the daily rate for attending meetings by 5% per year by annually adopting an ordinance that provides for such an increase.

Until 2018, Valley Water board members received compensation for up to 10 days per month like other water districts. AB 1889 (Caballero), Chapter 251, Statutes of 2018, made various changes to the district's principal act, including increasing compensation for Valley Water board members to 15 days per month until December 31, 2023.

- 4) **Bonds.** When public agencies issue bonds, they borrow money from investors, who provide cash in exchange for the agencies' commitment to repay the principal amount of the bond plus interest. Bonds are usually either revenue bonds, which repay investors out of revenue generated from the project the agency buys with bond proceeds, or general obligation bonds, which the public agency pays out of general revenues and the agency guarantees with its full faith and credit. Since bonds produce interest costs, they are generally used for financing projects with useful lives that correspond to the bond's term, such as an affordable housing project. Public agencies generally do not use bonds to fund services, such as procuring legal services. Generally, issuing bonds requires 2/3 voter approval. However, some types of revenue bonds do not require a 2/3 vote, or any vote at all. For example, the Revenue Bond Law of 1941 only requires majority voter approval. When a local agency uses revenue bonds, they are paid solely from and secured by a lien upon the gross revenues of the enterprise and such funds as are described in the resolution authorizing the issuance of the bonds. Repayment of most bonds is calculated based on the public agency's gross revenues, and bond payments take precedent over the agency's operational costs.
- 5) **Short-Term Debt.** To manage short-term cash flow needs, public agencies generally use the proceeds of tax and revenue anticipation notes (TRANs) and revenue anticipation notes (RANs) to finance their current fiscal year expenses. Although the notes may mature in the following fiscal year, they are payable solely from revenue from fiscal year in which they are issued. TRANs and RANs are secured by a pledge of a lien on the revenues of the fiscal year of their issuance. Public agencies can issue TRANs in an amount up to 85% of the issuer's estimated taxes to be collected, income, revenue, cash receipts, and other moneys available for making note payments. These provisions allow the notes to mature up to 15 months from the date of issuance (as long as they are payable solely from current fiscal year revenue). Since TRANs and RANs satisfy the requirements of the current fiscal year exception to the constitutional debt limit, they do not require voter approval.
- 6) **Bill Summary.** This bill makes changes to Valley Water's authority to issue bonds and short-term debt. This bill also extends, indefinitely, a provision that specifies that no ordinance adopted to provide compensation to a director shall authorize compensation for more than a total of 15 days in any calendar month. Lastly, this bill deletes obsolete provisions and makes numerous technical and conforming changes. Valley Water is the sponsor of this bill.
- 7) **Previous Legislation.** SB 786 (Becker) from last year was very similar to this bill. SB 786 was substantially amended and re-referred to a different committee.
- 8) **Arguments in Support.** According to Valley Water, "Despite being one of the largest water agencies in California, Valley Water's governing state law has not kept up with the rapid transformation of Silicon Valley into a major metropolitan area. Valley Water currently lacks the ability to propose general obligation bonds supported by ad valorem property taxes approved by a 2/3 vote of the people. Other water agencies can access the lowest cost public financing instruments such as revenue bonds, but Valley Water is relegated to higher cost

contractual borrowing because our water system revenue bond mechanism is broken and unusable. As Valley Water is on the verge of large-scale public borrowing for critical water supply and flood protection projects, our agency needs to modernize our financing mechanisms to help reduce the increasing cost of water and to keep our communities safe from flooding, sea level rise, and land subsidence.

“AB 939 will modernize Valley Water’s public financing mechanisms by allowing the voters to decide if they would like to pay for critical water supply and flood risk reduction infrastructure using general obligation bonds paid through ad valorem property taxes. The bill also will fix a problem with our water system revenue bond authority by allowing revenue bonds to be payable using the net revenues of the water system instead of gross revenues. If Valley Water issued bonds payable from gross revenue as required by the current law, it would put one creditor above another, thereby violating pledges made on existing debt. Making bonds payable based on net revenues puts the people’s interest first, meaning that the water system’s operation and maintenance should come first, thereby preserving the water system’s ability to earn revenue, pay debts, and preserve the infrastructure for the people of Santa Clara County.

“This bill also cleans up obsolete provisions of the District Act; standardizes the numeration of subdivisions, paragraphs, and subparagraphs; and deletes a sunset date. If that sunset date is not removed, Valley Water’s maximum board member compensation would revert to \$43,904 per year, a number so low only people who are retired or independently wealthy could afford to serve on the Valley Water board. The compensation for service on the Valley Water board should reflect the time needed to do the job, which is virtually full time. If the compensation is too low, people of more modest means, such as low-income communities and communities of color, cannot afford to serve on the board and their representation is diminished. AB 939 rightly keeps the maximum number of compensable meeting days at 15 days per month, instead of reverting to a low compensation for just 10 days per month. AB 939 would enact public finance reforms needed to cost-effectively supply water and flood risk reduction for Santa Clara County, help ensure a more diverse Valley Water Board of Directors, and to updated antiquated language in our governing statutes.”

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

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Santa Clara Valley Water District [SPONSOR]  
Association of California Water Agencies  
California Municipal Utilities Association  
California Special Districts Association  
California Water Service  
City of San Jose  
San Jose/Silicon Valley Branch of the NAACP  
San Jose Water Company  
Sustainable Silicon Valley

**Opposition**

None on file

**Analysis Prepared by:** Jimmy MacDonald / L. GOV. / (916) 319-3958