

Senate Bill No. 1542

CHAPTER 399

An act to amend Sections 4, 5, 21, 22, 23, 27, 29, 30, 41, 42, 51, 61, 66, 72, 80, 86, and 87 of, to add Section 30.5 to, and to repeal Section 26 of, the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), relating to the San Diego Unified Port District.

[Approved by Governor August 17, 1996. Filed with
Secretary of State August 19, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1542, Peace. San Diego Unified Port District.

(1) Existing law, the San Diego Unified Port District Act, provides for the San Diego Unified Port District.

Under the act, the district may be established or organized and governed as provided in the act.

This bill, in addition, would authorize the district, subject to specified provisions, to use the powers and authority granted to it to protect, preserve, and enhance the physical access to San Diego Bay, the natural resources of the bay, including plant and animal life, and the quality of water in the bay.

(2) The act specifies that the area within the district shall include all the corporate areas of the cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach, and any unincorporated territory in the County of San Diego contiguous thereto, which is economically linked to the development and operation of San Diego Bay, included in the district by the board of supervisors of the county, as authorized by the act.

This bill, in addition, would specify that the regulatory, taxing, and police power jurisdiction of the district as otherwise provided in the act, shall apply to the above-described area.

The bill also would extend the district's power to exercise its land management authority and powers over any other lands or interest in lands acquired by the district in furtherance of the district's powers and purposes as provided in (14).

(3) Under the act, ordinances passed by the board do not go into effect until the expiration of 30 days from their publication, except as specified.

This bill, instead, would provide that ordinances passed by the board shall not go into effect until 30 days from the date of passage by the board, except as specified.

(4) Under the act, all grants, franchises, leases, permits, rights, or privileges for one year or less are required to be made by the port

director in accordance with any regulations the board prescribes by resolution, and all grants, franchises, leases, permits, rights, or privileges for more than one year are required to be made by ordinance, except as provided.

This bill, instead, would require all grants, franchises, leases, permits, rights, or privileges for 5 years or less to be made by the executive director in accordance with any regulations the board prescribes by resolution, and all grants, franchises, leases, permits, or privileges for more than 5 years to be made by ordinance, except as provided.

(5) Under the act, the district may bring an action to determine the validity of any of its bonds, warrants, contracts, obligations, or evidence of indebtedness, as specified.

This bill also would authorize the district to bring an action to determine the validity of any of its taxes, revenues, rates, and charges.

(6) Under the act, any proposed use by the district of any particular land within its jurisdiction that would constitute a public nuisance may be prohibited by ordinance adopted by the city within which the land is located.

This bill would repeal this provision.

(7) Under the act, the district is authorized to exercise the right of eminent domain within the boundaries of the district to take any property necessary or convenient to exercise its powers.

This bill would authorize the district to exercise this right of eminent domain provided it is consistent with, and pursuant to, specified provisions of the act.

(8) Under the act, the district is authorized to refund any indebtedness.

This bill also would authorize the district (a), for the exclusive purpose of securing financing or refinancing of any project or purpose permitted by the act, through the issuance of bonds or certificates of participation by a joint powers authority, to borrow money or purchase or lease property from the port authority, and (b) to enter into any liquidity or credit agreement it deems necessary for certain financing or refinancing purposes.

(9) Under the act, the district, within its boundaries, is authorized to acquire, purchase, take over, construct, maintain, operate, develop, and regulate grain elevators, bunkering facilities, belt or other railroads, floating plants, and other facilities necessary for, or incident to, the development and operation of a harbor or for the accommodation and promotion of commerce, navigation, fisheries, or recreation in the district.

This bill, in addition, would authorize the district to acquire, purchase, develop, construct, maintain, repair, operate, and regulate highways, streets, roadways, bridges, railroads, trolleys, buses, and similar transportation facilities, parking facilities, power, communication facilities, water and gas pipelines, and all other

transportation and utility facilities or betterments incidental, necessary, or convenient to the development and operation of air terminal and rail facilities, and the other purposes for which the district was established.

(10) The bill also would authorize the district to exercise its right of eminent domain, as specified in (7), and other activities, as specified in (9), if the activities are adjacent to lands specified in (9), the board finds that adequate areas for these activities do not presently exist within those lands, and the activities are necessary or incidental to carrying out the purposes described in (14).

(11) Under the act, the district board is authorized to provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the district.

This bill, among other things, would authorize the district board to do these things by resolution and without the necessity of an election.

(12) Under the act, whenever the district board deems it necessary for the district to incur a revenue bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by the act, the board is required to issue those revenue bonds in accordance with the Revenue Bond Act of 1941 and by ordinance adopted by $\frac{2}{3}$ of all the members of the board and subject to referendum.

This bill would revise the method by which the district board could incur a revenue bonded indebtedness for these purposes.

(13) Existing law authorizes the district, in any year, to levy assessments, reassessments, or special taxes and to issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, specified provisions of law.

This bill would add to those specified provisions of law the Refunding Act of 1984 for 1915 Improvement Act Bonds, as specified in the Streets and Highways Code.

(14) Under the act, the tide and submerged lands conveyed to the district by any city included in the district shall be held by the district and may be used for specified general statewide purposes.

This bill would add to that list of specified general statewide purposes the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration.

(15) This bill also would make technical, nonsubstantive changes in those provisions by, among other things, changing the title of port director to executive director.

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

SECTION 1. Section 4 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 4. (a) A port district for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail, water, and air terminal facilities, for the development, operation, maintenance, control, regulation, and management of the harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the promotion of commerce, navigation, fisheries, and recreation thereon, may be established or organized and governed as provided in this act and it may exercise the powers expressly granted herein.

(b) Subject to Section 87 and any other provision of applicable law, the district may use the powers and authority granted pursuant to this section to protect, preserve, and enhance all of the following:

- (1) The physical access to the bay.
- (2) The natural resources of the bay, including plant and animal life.
- (3) The quality of water in the bay.

(c) Notwithstanding any other provision of law, the powers and authority specified in this section are to be used only as necessary or incident to the development and operation of a port and shall not apply to public utilities operated under the jurisdiction of the Public Utilities Commission of the State of California.

SEC. 1.5. Section 5 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 168 of the Statutes of 1990, is amended to read:

Sec. 5. (a) The area within the district shall include all of the corporate area of each of the cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach which establish the district as provided in this act, and any unincorporated territory in the County of San Diego contiguous thereto, which is economically linked to the development and operation of San Diego Bay, included in the district by the board of supervisors of the county as provided in this act. The regulatory, taxing, and police power jurisdiction of the district, as otherwise provided for in this act, shall apply to the above-described area.

(b) In addition to the powers and authority described in subdivision (a), the district shall exercise its land management authority and powers over the following areas:

(1) The tidelands and submerged lands granted to the district pursuant to this act or any other act of the Legislature.

(2) Any airport or airports now or hereafter owned and operated by any of the above-named cities that establish the district, or San

Diego County, and that were conveyed to the district by such a city or cities or San Diego County.

(3) Any other lands conveyed to the district by any city or the County of San Diego.

(4) Any other lands or interest in lands acquired by the district in furtherance of the district's powers and purposes as provided in Section 87.

SEC. 2. Section 21 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 21. The board may pass all necessary ordinances and resolutions for the regulation of the district.

The enacting clause of all ordinances passed by the board shall be in substantially the following form:

"The Board of Port Commissioners of San Diego Unified Port District do ordain as follows:"

All ordinances and resolutions shall be signed by the chairperson of the board and attested by the clerk.

All ordinances and resolutions shall be entered in the minutes. All ordinances passed by the board shall be published, within 15 days from the passage thereof, with the names of the members voting for and against them at least once in a daily newspaper of general circulation printed and published in the district.

Ordinances passed by the board shall not go into effect until the expiration of 30 days from the date of their passage by the board, except ordinances ordering or otherwise relating to the following which shall take effect upon their publication:

- (a) An election.
- (b) The adoption of the annual budget.
- (c) The bringing or conducting of suits or actions.
- (d) The condemnation of private property for public use.
- (e) The immediate preservation of the public peace, health, or safety, which ordinance shall contain a specific statement showing its urgency and be passed by a two-thirds vote of the board.

A grant, franchise, lease, right, or privilege shall never be construed to be an urgency measure.

All grants, franchises, leases, permits, rights, or privileges for five years or less may be made by the executive director in accordance with any regulations the board prescribes by resolution, and all grants, franchises, leases, permits, or privileges for more than five years shall be made by ordinance, except leases or installment sales to or from a joint powers authority or nonprofit corporation in connection with the issuance of bonds or certificates of participation which may be authorized by resolution. Irrevocable permits shall not be granted or issued to any person.

SEC. 3. Section 22 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 22. (a) The board may employ engineers, attorneys, and any other officers and employees necessary in the work of the district.

(b) The executive director shall appoint a treasurer whose duty it shall be to receive and safely keep all moneys of the district.

(1) The treasurer shall do all of the following:

(A) Comply with all provisions of law governing the deposit and securing of public funds.

(B) Pay out moneys only as authorized by the board, except that no authorization shall be necessary for the payment of principal and interest on bonds of the district, or payment of lease rentals or installment purchase payments used to pay the principal and interest on bonds or certificates of participation issued by, or on behalf of, or at the request of the district.

(C) At regular intervals, at least once each month, submit to the secretary of the district a written report and accounting of all receipts and disbursements and fund balances, a copy of which report he or she shall file with the board.

(2) The treasurer may appoint a deputy or deputies for whose acts the treasurer and the treasurer's bondsmen shall be responsible. The deputy or deputies shall hold office subject to the pleasure of the treasurer and shall receive compensation as may be provided by the board.

(3) The treasurer shall execute a bond covering the faithful performance by him or her of the duties of the treasurer's office and his or her duties with respect to all moneys coming into his or her hands as treasurer in an amount fixed by resolution of the board. The surety bond required by this paragraph shall be executed only by a surety company authorized to do business in the State of California and the premium therefor shall be paid by the district. The bond shall be approved by the board and filed with the secretary of the district.

(4) The treasurer, before entering upon the duties of his or her office, shall take and file with the secretary of the district the oath of office required by the California Constitution.

SEC. 4. Section 23 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 23. The district and the board may sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction.

The district also may bring an action to determine the validity of any of its taxes, revenues, rates, charges, bonds, warrants, contracts, obligations, or evidences of indebtedness pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 5. Section 26 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) is repealed.

SEC. 6. Section 27 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 587 of the Statutes of 1975, is amended to read:

Sec. 27. The district may exercise the right of eminent domain within the boundaries of the district to take any property necessary or convenient to the exercise of its powers consistent with Section 4 and pursuant to Section 30.5.

SEC. 7. Section 29 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 168 of the Statutes of 1990, is amended to read:

Sec. 29. (a) (1) The district may issue bonds, borrow money, and incur indebtedness as authorized by law or as provided in this act.

(2) The district also may refund any indebtedness as provided in this act or in any other applicable law, may refund by the issuance of the same type of obligations as those refunded and following the same procedure as at that time may be applicable to the issuance of those obligations, and may retire any indebtedness or lien that may exist against the district or its property.

(3) For the exclusive purpose of securing financing or refinancing of any project or purpose permitted by this act, through the issuance of bonds or certificates of participation by a joint powers authority, and notwithstanding any other provision of law applicable to borrowing or the issuance of bonds, the district may borrow money or purchase or lease property from the authority. In this connection, the district may sell or lease property to the authority to the extent allowed by subdivision (b) of Section 87, in each case, in accordance with the interest rate or rates, maturity date or dates, installment payment or rental provisions, security, pledge of revenues and other assets, covenants to increase rates and charges, default, remedy, and any other terms or provisions as may be specified in the loan, loan purchase, installment sale, lease, or other agreement or agreements between the district and the authority.

(4) The district may enter into any liquidity or credit agreement it may deem necessary or appropriate in connection with any financing or refinancing authorized by this section. This section provides a complete, additional, and alternative method of performing the acts authorized by this section, and the borrowing of money, incurring indebtedness, sale, purchase, or lease of property from or to a joint powers authority.

(b) The district may retire any indebtedness that is outstanding as of the effective date of the act amending this section enacted at the 1989–90 Regular Session of the Legislature, that has been incurred by the City of Imperial Beach for the construction or reconstruction of

the Imperial Beach pier located upon tide and submerged lands granted to the district by the Legislature pursuant to that act.

SEC. 8. Section 30 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 30. (a) (1) The board may regulate and control the anchoring, mooring, towing, and docking of all vessels.

(2) The board may manage the business of the district and promote the maritime and commercial interests by proper advertisement of its advantages and by the solicitation of business within or outside the district, within other states or in foreign countries, through employees or agencies that are expedient.

(b) (1) The district may perform the functions of warehousemen, stevedores, lighterers, reconditioners, shippers, and reshippers of properties of all kinds.

(2) Within the boundaries of the district, consistent with the provisions of this act, the district may do all of the following:

(A) Acquire, purchase, take over, construct, maintain, operate, develop, and regulate grain elevators, bunkering facilities, belt or other railroads, floating plants, lighterage, towage facilities, and any and all other facilities, aids, equipment, or property necessary for or incident to the development and operation of a harbor or for the accommodation and promotion of commerce, navigation, fisheries, or recreation in the district.

(B) Acquire, purchase, develop, construct, maintain, repair, operate, and regulate highways, streets, roadways, bridges, railroads, trolleys, buses, and similar transportation facilities, parking facilities, power, communication facilities, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient to the development and operation of air terminal and rail facilities, and the other purposes for which the district was established.

SEC. 9. Section 30.5 is added to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 30.5. (a) The district may undertake the activities authorized in Section 27 or listed in paragraph (2) of subdivision (b) of Section 30 outside of the lands listed in subdivision (b) of Section 5 if all of the following occur:

(1) The activities are adjacent to the lands listed in subdivision (b) of Section 5.

(2) The board finds that adequate areas for these activities do not presently exist within the lands listed in subdivision (b) of Section 5.

(3) The activities are necessary or incidental to carrying out the purposes described in Section 87.

(b) At least 60 days before making a capital expenditure in excess of one hundred thousand dollars (\$100,000), but not more than one

million dollars (\$1,000,000), in or on the lands specified in subdivision (a), the district shall give written notice of that proposed expenditure to the State Lands Commission. The notice shall set forth the trust purposes, as set forth in this act, for which the proposed expenditure will be made.

(c) The district shall not make capital expenditures in excess of one million dollars (\$1,000,000) in or on lands listed in subdivision (a) unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.

(d) At least 60 days before making a capital expenditure of not more than two hundred fifty thousand dollars (\$250,000) in or on the lands that are not adjacent to lands specified in subdivision (b) of Section 5, the district shall give written notice of that proposed expenditure to the State Lands Commission. The notice shall set forth the trust purposes, as set forth in this act, for which the proposed expenditure will be made.

The district shall not make capital expenditures in excess of two hundred fifty thousand dollars (\$250,000) in or on lands that are not adjacent to lands specified in subdivision (b) of Section 5 unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.

(e) Any property acquired by the district shall become an asset of the public trust and be subject to Section 87.

SEC. 10. Section 41 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 41. Notwithstanding any other provision of this act, the board may borrow money by issuance of negotiable promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of two hundred thousand dollars (\$200,000), for the purposes of the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district.

Negotiable promissory notes issued pursuant to this section shall mature five years from their respective dates of issuance and shall bear interest at a rate or rates not exceeding 6 percent per annum payable annually or semiannually.

No conditional sales contract shall be for a term in excess of five years from the date of execution thereof.

The negotiable promissory notes and the conditional sales contracts shall contain any terms and provisions the board specifies in the ordinance providing for the issuance thereof. The negotiable promissory notes shall be signed in the same manner as general

obligation bonds of the district and the conditional sales contracts shall be signed in the same manner as other contracts of the district.

As a condition precedent to the issuance of any negotiable promissory notes for the purposes of the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this section or the execution of any conditional sales contract for those purposes, as provided in this section, in excess of twenty-five thousand dollars (\$25,000), the board shall first unanimously approve by resolution and have on file a report approved by the executive director on the engineering and economic feasibility relating to the project contemplated for the expenditure of that borrowed money or conditional sales contract. The feasibility report shall be prepared and signed by an engineer or engineers licensed and registered under the laws of the State of California.

Taxes for the payment of all negotiable promissory notes or conditional sales contracts issued under this section shall be levied, collected, paid to the district, and used in the same manner as is hereinafter provided for general obligation bonds of the district.

SEC. 11. Section 42 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 42. (a) Whenever the board deems it necessary for the district to incur a general obligation bonded indebtedness for the acquisition or improvement of real property, authorized by this act or necessary or convenient for the carrying out of the powers of the district, it shall, by ordinance, adopted by two-thirds of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of general obligation bonds of the district. The ordinance shall state all of the following:

(1) The purpose for which the proposed debt is to be incurred, which may include expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing the purpose.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years from the date thereof or the date of each series thereof.

(5) The maximum rate of interest to be paid, which shall not exceed 12 percent per annum.

(6) The proposition to be submitted to the voters.

(7) The date of the election.

(8) The manner of holding the election and the procedure for voting for or against the measure.

(b) Notice of the holding of the election shall be given by publishing, pursuant to Section 6066 of the Government Code, the ordinance calling the election in at least one newspaper published in the district. No other notice of the election need be given. Except as otherwise provided in the ordinance, the election shall be conducted as other district elections.

(c) If any proposition is defeated by the electors, the board shall not call another election on a substantially similar proposition to be held within six months after the prior election. If a petition requesting submission of a proposition, signed by 15 percent of the district electors, as shown by the votes cast for all candidates for Governor at the last election, is filed with the board, it may call an election before the expiration of six months.

(d) If two-thirds of the electors voting on the proposition vote for it, then the board may, by resolution, at a time or times as it deems proper, issue bonds of the district for the whole or any part of the amount of the indebtedness so authorized and may, from time to time, in that resolution or resolutions, provide for the issuance of those amounts as the necessity thereof may appear, until the full amount of the bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates and different dates of payment fixed for the bonds of each series. A bond need not mature on an anniversary of its date. The maximum term the bonds of any series shall run before maturity shall not exceed 40 years from the date of each series respectively. In the resolution or resolutions the board shall prescribe the form of the bonds and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and fix the time when the whole or any part of the principal shall become due and payable.

(e) The bonds shall bear interest at a rate or rates not exceeding 12 percent per annum, payable semiannually, except that the first interest payable on the bonds or any series thereof may be for any period not exceeding one year as determined by the board. In the resolution or resolutions providing for the issuance of the bonds, the board also may provide for call and redemption of the bonds prior to maturity at those times and prices and upon other terms as it may specify, provided that no bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon. The denomination or denominations of the bonds shall be stated in the resolution providing for their issuance, but shall not be less than one thousand dollars (\$1,000). The principal of and interest on the bonds shall be payable in lawful money of the United States at the office of the treasurer of the district or at any other place or places as may be designated, or at either place or places at the option of the holders of the bonds. The bonds shall be dated, numbered consecutively and signed by the

chair and treasurer, countersigned by the clerk, and the official seal of the district attached. The interest coupons of the bonds shall be signed by the treasurer. All signatures, countersignatures, and seal may be printed, lithographed, or mechanically reproduced, except that one of the signatures or countersignatures on the bonds shall be manually affixed. If any officer whose signature or countersignature appears on bonds or coupons ceases to be that officer before the delivery of the bonds, his or her signature is as effective as if he or she had remained in office.

(f) The bonds may be sold, either above or below par, at a price the board determines by resolution. Before selling the bonds, or any part thereof, the board shall give notice inviting sealed bids in a manner that it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

(g) Delivery of any bonds may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

(h) All accrued interest received on the sale of bonds shall be placed in the fund to be used for the payment of principal of and interest on the bonds and the remainder of the proceeds of the bonds shall be placed in the treasury to the credit of the proper improvement fund and applied exclusively to the purpose for which the debt was incurred. However, when that purpose has been accomplished, any moneys remaining in the improvement fund (1) shall be transferred to the fund to be used for the payment of principal of and interest on the bonds, or (2) shall be placed in a fund to be used for the purchase of outstanding bonds of the district. The bonds may be purchased only after publishing, pursuant to Section 6066 of the Government Code, in the district a notice inviting sealed proposals for the sale of bonds to the district. The notice shall state the time and place when proposals will be opened and the amount of money available for the purchase of the bonds and the maximum price to be paid for the bonds so purchased. The notice may be published elsewhere in the United States in the discretion of the board. The board may reject any or all proposals and if it rejects all proposals, the board, within a period of 30 days thereafter, may purchase for cash any outstanding bonds of the district but in that event the purchase price shall not be more than the lowest purchase price at which bonds were tendered to the district in the public bidding. Any bonds so purchased shall be canceled immediately.

(i) After the expiration of three years after a general obligation bond election, the board may determine, by ordinance adopted by two-thirds of all the members of the board, that any or all of the bonds

authorized at the election remaining unsold shall not be issued or sold. When the ordinance takes effect, the authorization to issue the bonds shall become void.

(j) Whenever the board deems that the expenditure of money for the purpose for which the bonds were authorized by the voters is impractical or unwise, it may, by ordinance adopted by two-thirds of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of the bonds for some other purpose. The procedure, so far as applicable, shall be the same as when a bond proposition is originally submitted.

(k) The board, by resolution and without the necessity of an election, may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the district upon the terms, at the times, and in the manner which it determines. Refunding bonds may be issued in a principal amount sufficient to pay all or any part of the principal of any outstanding bonds, the interest thereon, and the premiums, if any, due upon call redemption thereof prior to maturity and all expenses of that refunding. The provisions for this section for authorization, issuance, and sale of bonds shall apply to the authorization, issuance, and sale of those refunding bonds, except that when refunding bonds are to be exchanged for outstanding bonds, the method of exchange shall be as determined by the board.

(l) The district shall not incur a general obligation bonded indebtedness which in the aggregate exceeds 15 percent of the assessed value of all real and personal property in the district.

SEC. 12. Section 51 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 51. (a) Whenever the board deems it necessary for the district to incur a revenue bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district, the board shall issue those revenue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code and the limitations set forth in subdivision (b) of Section 54402 of the Government Code shall not apply to the issuance and sale of bonds pursuant to this section. Instead, by ordinance adopted by two-thirds of all the members of the board and subject to referendum, the board may provide for the issuance of those bonds and, unless the ordinance is subject to referendum, no election shall be required to authorize the

issuance of the bonds. To initiate a referendum, a petition protesting against the adoption of the ordinance shall be signed by voters of the district equal in number to at least 5 percent of the entire vote cast within that district for all candidates for Governor at the last gubernatorial election.

The ordinance shall specify all of the following:

(1) The purposes for which the bonds are to be issued, which may include any one or more purposes authorized by this section or this act.

(2) The maximum principal amount of the bonds.

(3) The maximum term for the bonds.

(4) The maximum rate of interest, fixed or variable, to be payable upon the bonds.

(5) The maximum discount or premium on the sale of bonds.

(b) For the purposes of issuing and selling revenue bonds pursuant to this section, the following definitions are applicable to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code):

(1) “Enterprise” means any purpose, operation, facility, system, improvement, or undertaking of the district from which revenues are derived or otherwise allocable, which revenues are or may, by resolution or ordinance, be required to be separately accounted for from other revenues of the district.

(2) “Fiscal agent” means any fiscal agent, trustee, paying agent, depository, or other fiduciary provided for in the ordinance authorizing the issuance of the bonds. The fiscal agent may be located within or without the state.

(3) “Ordinance” means, unless the context otherwise requires, the instrument providing the terms and conditions for the issuance of the revenue bonds, and may be an indenture, resolution, ordinance, lease, installment sale, agreement, or other instrument in writing.

(c) Each ordinance shall provide for the issuance of revenue bonds in the amounts as may be necessary, until the full amount of the bonds authorized has been issued. The full amount of bonds may be divided into two or more series with different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date. Any provision of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) that is inconsistent with this section or this act shall not be applicable.

(d) The district may issue refunding revenue bonds to redeem or retire any revenue bonds issued by the district upon the terms, at the times, and in the manner which the board, by ordinance, determines. Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the

premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(1) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(2) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(e) This section provides a complete, additional, and alternative method of performing the acts authorized by this section, and the issuance of revenue bonds, including refunding revenue bonds, need not comply with any other law applicable to borrowing or the issuance of bonds.

SEC. 13. Section 61 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as added by Chapter 978 of the Statutes of 1991, is amended to read:

Sec. 61. (a) The district, in any year, may levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Refunding Act of 1984 for 1915 Improvement Act Bonds (Division 11.5 (commencing with Section 9500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54701) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Part 1 of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the

assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the district may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, if the advances are repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for the disposal of dredged material.

(e) For the purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For the purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 14. Section 66 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 66. Notwithstanding any other provisions of this act or any other law, the provisions of all ordinances, resolutions, and other proceedings in the issuance by the district of any general obligation bonds, general obligation bonds with a pledge of revenues, revenue bonds, negotiable promissory notes, or any and all evidences of indebtedness or liability shall constitute a contract between the district and the holders of those bonds, notes, or evidences of indebtedness or liability and the provisions thereof, and the provisions of this act shall be enforceable against the district, any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction. Nothing contained in this act or in any other law shall be held to relieve the district or the territory included within it from any bonded or other debt or liability contracted by the district. Upon dissolution of the district or upon withdrawal of territory therefrom, the property formerly included within the district or withdrawn therefrom shall continue to be liable for the payment of all bonded and other indebtedness or liabilities outstanding at the time of the dissolution or withdrawal the same as if the district had not been so dissolved or the territory withdrawn therefrom, and it shall be the duty of the successors or assigns to provide for the payment of that bonded and other indebtedness and liabilities. To the extent provided in the proceedings for the authorization, issuance, and sale of any revenue bonds or general obligation bonds secured by a pledge of revenues, revenues of any kind or nature derived from any revenue-producing improvements, works, facilities, or property owned, operated, or controlled by the district may be pledged, charged, assigned, and have a lien thereon for the payment of those bonds as long as the bonds are outstanding, regardless of any change in ownership, operation, or control of those revenue-producing improvements, works, facilities, or property, and it shall be the duty of the successors or assigns to continue to maintain and operate those revenue-producing improvements, works, facilities, or property as long as the bonds are outstanding.

SEC. 15. Section 72 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 349 of the Statutes of 1965, is amended to read:

Sec. 72. The officers of the district shall be as follows:

- (a) An auditor.
- (b) An executive director.
- (c) An attorney.

- (d) A clerk.
- (e) A treasurer.
- (f) A chief engineer.

The auditor, executive director, and attorney shall be appointed by the board. The auditor and attorney shall appoint deputies or assistants as authorized by the board. All other officers and employees shall be appointed by the executive director. All officers appointed by the executive director shall be confirmed by the board.

SEC. 16. Section 80 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 80. All money received or collected from or arising out of the use or operation of any harbor or port improvement, work, appliance, facility or utility, or vessel, owned, controlled or operated by the district; all tolls, charges and rentals collected by the board, and all compensation, or fees required to be paid for franchises or licenses, or otherwise by law or ordinance or order, to the district for the operation of any public service utility upon lands or waters under the control and management of the board, shall be deposited in the treasury of the district to the credit of the San Diego Unified Port District Revenue Fund. The money in or belonging to the fund shall not be appropriated or used for any purpose except those enumerated in this act and any enumeration shall not be deemed to create any priority of one use or purpose over another.

SEC. 17. Section 86 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 86. The executive director may make application in writing to the board for a transfer of amounts from one appropriated item to another in the budget allowance. On the approval of the board by a two-thirds vote, the auditor shall make the transfer, but a transfer shall not be made except as herein provided. Any transfer of bond or note proceeds or of bond or note service, reserve, or sinking funds shall be made only as provided in the proceedings authorizing the issuance of those bonds.

SEC. 18. Section 87 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 87. (a) The tide and submerged lands conveyed to the district by any city included in the district shall be held by the district and its successors in trust and may be used for purposes in which there is a general statewide purpose, as follows:

(1) For the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental,

necessary, or convenient, for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.

(3) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including, but not limited to, approach, takeoff, and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any such uses.

(6) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses, including, but not limited to, snack bars, cafes, restaurants, motels, launching ramps, and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways, and landscaped areas.

(7) For the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration.

(b) The district or its successors shall not, at any time, grant, convey, give, or alienate those lands, or any part thereof, to any individual, firm, or corporation for any purposes whatever. However, the district, or its successors, may grant franchises thereon for limited

periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease those lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from those leases, franchises, and privileges. Those lease or leases, franchises, and privileges may be for any and all purposes which shall not interfere with commerce and navigation.

(c) Those lands shall be improved without expense to the state. However, nothing in this section shall preclude expenditures for the development of those lands for any public purpose not inconsistent with commerce, navigation, and fishery, by the state, or any board, agency, or commission thereof, when authorized or approved by the district, or preclude expenditures by the district of any funds received for that purpose from the state or any board, agency, or commission thereof.

(d) In the management, conduct, operation, and control of those lands or any improvements, betterments, or structures thereon, the district or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments, or structures constructed upon those lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on those lands with the right of convenient access to that water over those lands for that purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, in those lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove deposits from said lands.

(h) Those lands shall be held subject to the express reservation and condition that the state may at any time in the future use those lands or any portion for highway purposes without compensation to the district, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements, betterments, or structures have been placed upon the property taken by the state for those purposes, compensation shall be made to the district, its successors, or assigns, or any person, firm, or public or private corporation entitled thereto for the value of his or her or its interest in the improvements, betterments, or structures taken or the damages to that interest.

(i) The State lands Commission, at the cost of the district, shall survey and monument those lands and record a description and plat thereof in the office of the County Recorder of San Diego County.

(j) As to any tide and submerged lands conveyed to the district by a city that are subject to a condition contained in a grant of those lands to the city by the state that those lands shall be substantially improved within a designated period or else they shall revert to the state, that condition shall remain in effect as to those lands and shall be applicable to the district.

As to any tide and submerged lands conveyed to the district by a city that are not subject to such a condition contained in a grant by the state and that have not heretofore been substantially improved, those lands, within 10 years from July 12, 1962, shall be substantially improved by the district without expense to the state. If the State Lands Commission determines that the district has failed to improve the lands as herein required, all right, title, and interest of the district in and to those lands shall cease and the lands shall revert and rest in the state.