

January 9, 1991

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
PROPOSED SPECIAL ACT DISTRICT LEGISLATION

Submitted for your review is the most current revision of the draft legislative language creating a special act district for the regional management of wastewater transportation, treatment, disposal, and reuse.

The most current revision is dated December 12, 1990, and supersedes the draft dated December 5, 1990, which was submitted to the Public Services and Safety Committee ("PS&S") on December 6, 1990. Attached to the December 5th draft, and presented to PS&S was a report from the City Attorney summarizing the progression of events up to that date. The report to PS&S is attached hereto.

The Clean Water Program Governance Advisory Group ("CWPGAG") reviewed the December 5th draft at their meeting of December 7, 1990. The most current draft incorporates the recommendations of the CWPGAG, from their December meeting.

By majority vote of the members of the CWPGAG, it was recommended that the district be entitled "San Diego Area Wastewater Management District." CWPGAG also recommended that the district be formed by the legislature, not by vote.

Regarding financing powers, the CWPGAG recommended that the legislative act creating the district contain language enabling access to the broadest menu of financing mechanisms, including the issuance of general obligation bonds. The CWPGAG was informed, and understood that any issuance of general obligation bonds would still require voter approval, notwithstanding the enabling provision in the legislation.

The CWPGAG recommended that the district also be able to issue revenue bonds in an amount not exceeding \$3.95 billion dollars without voter approval. This authority would be vested in the district by the state legislature at the time the district was formed. However, if the district desired to issue revenue

bonds in excess of \$3.95 billion dollars, voter approval would be required pursuant to the provisions of the 1941 Sewer Revenue Bond Act.

In addition to the recommendations regarding availability of financing mechanisms, the CWPGAG recommended preserving flexibility in how the district repays its debt. To that end,

the CWPGAG recommended that legislative language be included which enables the district to levy taxes. Once again, CWPGAG was informed and understood that notwithstanding such enabling provision, no tax may be levied without first complying with all constitutional requirements, and the taxing power would be limited to retiring debt evidenced by general obligation bonds.

The recommendations of the CWPGAG in the areas of debt financing and taxation were in general concurrence with the City's Financial Advisors and Bond Counsel. Additionally, the Financial Advisors recommended that language be added enabling the district to directly bill the rate payers (customers) via the tax rolls -- hence, section 105.

At the December 7th meeting of the CWPGAG, both the City of El Cajon and the City of Lemon Grove formally withdrew themselves from membership in the proposed district. Both cities chose instead to rely upon their existing Sewage Disposal Agreements with The City of San Diego.

On December 13th, the City Manager's office distributed a letter (copy attached) to each participant of the CWPGAG. This letter included as an attachment the most recent draft. In his letter, the City Manager requested feedback. Due to the holidays, responses are just beginning to arrive. As review of these responses proceeds, more revisions will undoubtedly be made to the legislative language.

Respectfully submitted,
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City Attorney

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Attachments

RC-91-4