



- Board of Directors
Communications and Legislation Committee

4/9/2013 Board Meeting

8-7

Subject

Express support for AB 1156 (V. Pérez, D - Coachella) - Palo Verde Irrigation District Act

Executive Summary

The Palo Verde Irrigation District (PVID) is governed by a seven-member board of trustees, all of whom must own land in PVID and a majority of whom must be residents of PVID. Only property owners are entitled to vote in district elections, and voting is weighted by the assessed value of the property, including improvements made by the landowners. AB 1156 would limit the voting rights in PVID elections to the assessed value of the land, excluding the value of any improvements. This proposed change in voting structure is designed to ensure stability in the voting rights of PVID landowners. Landowners in the Palo Verde Valley are concerned that changes in land use from agriculture to other uses could dramatically change land values and skew the voting. Metropolitan has made a significant investment in the Palo Verde Valley through its long-term fallowing and crop rotation program and has a significant interest in a cooperative, stable working relationship with the PVID Board. Further, Metropolitan's junior rights to Colorado River water are affected by PVID's agricultural water use, and it is in Metropolitan's interest that PVID's board of trustees continue to work cooperatively with Metropolitan.

Details

PVID was organized pursuant to a 1923 act of the California Legislature that authorized the consolidation of water supply, drainage and flood control functions being performed by separate entities in the Palo Verde Valley. PVID initially acquired the Colorado River water rights held by the Palo Verde Mutual Water Company, as successor to water rights claims made by Thomas Blythe. Following enactment of the Boulder Canyon Project Act, PVID executed a water delivery contract with the Secretary of the Interior in 1933 for the use of Colorado River water for potable and irrigation purposes. In accordance with the Seven Party Agreement among California's Colorado River water users, PVID has the first priority to the waters of the Colorado River within California.

PVID's enabling act established a board of trustees to govern the district. The board consists of seven members, all of whom must own property within PVID, and a majority of whom must reside in PVID. Only property owners are authorized to vote in district elections, and each property owner is entitled to one vote for every \$100 of assessed valuation based on the assessment roll of PVID. These restrictions on the voting rights for PVID were upheld against an equal protection challenge in 1969. The court held that PVID's limited purpose is to supply the property owners with water, and therefore, it is constitutional for the voting rights in PVID to be restricted to those who have a direct stake in PVID.

PVID's trustees have become concerned about the potential for land use change from agricultural to other non-agricultural uses. The value of improvements constructed for such projects could increase the weighted voting rights of those property owners. In response to this concern, Assemblyman V. Manuel Pérez has introduced AB 1156 ([Attachment 1](#)) to revise the statute governing PVID elections. The bill would exclude the value of improvements from the calculation of each property owner's weighted vote. The assessed value of the land alone would be the measure of the owner's vote.

Metropolitan acquired lands within PVID from San Diego Gas & Electric Company in 2001. The lands consist of 9,484 acres of irrigated land in the Palo Verde Valley and 6,640 acres of non-irrigated mesa lands. These lands were originally intended to be used for an electric energy generation plant that was never built. Today, the valley lands are leased by Metropolitan for agricultural use, subject to fallowing at Metropolitan's call. The mesa lands are unimproved, but are currently subject to an option for solar energy development.

PVID was concerned with the strength of the voting rights that would attach to these lands if they were improved with the energy plant proposed by San Diego Gas & Electric Company. For that reason, PVID negotiated an agreement with San Diego Gas & Electric Company to limit the voting rights for the valley lands, and the mesa lands are subject to a prohibition on voting imposed when those lands were annexed to PVID. Metropolitan has chosen not to vote in any PVID election since acquiring the lands.

In 2004, Metropolitan executed a long-term fallowing program with PVID. Under this program, Metropolitan executed contracts with individual landowners that obligate the owners to fallow a portion of their lands at Metropolitan's call. In exchange for this right, Metropolitan paid PVID landowners a significant up-front payment and makes subsequent payments when land is actually fallowed. This fallowing reduces the first priority consumptive use of Colorado River water, making that water supply available to Metropolitan. Metropolitan and PVID actively manage the 35-year fallowing program and have a history of addressing any issues that arise in a mutually agreeable manner. Metropolitan has an interest in the continued stability of the PVID board based on the agricultural economy in the Palo Verde Valley.

The voting strength of property owners that farm the land reflects only the assessed land value, as there are few improvements constructed on such lands. This voting strength could potentially be diluted by the construction of improvements for industrial or other uses. The restriction of voting rights to assessed land values would preserve the voting rights of farmers who use the vast majority of PVID's Colorado River water supplies. It is recommended that Metropolitan express its support for this amendment to the PVID voting law as proposed by AB 1156.

Policy

Approval of Land Management, Crop Rotation and Water Supply Program with Palo Verde Irrigation District, Minute Item 45754, May 11, 2004.

Acquisition of San Diego Gas & Electric Company lands for continued agricultural use and water supply programs, Minute Item 44586, August 20, 2001.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and express support for AB 1156.

Fiscal Impact: None

Business Analysis: Preservation of the voting strength based on agricultural use in the Palo Verde Irrigation District supports the agricultural economy and provides long-term stability on which Metropolitan’s long-term fallowing program is based.

Option #2

Take no position on AB 1156.

Fiscal Impact: None

Business Analysis: If the statute setting PVID voting rights based on assessed value of land and improvements is not amended, the makeup of the PVID board of trustees may reflect non-agricultural interests that could affect both the long-term fallowing program and the first priority use of Colorado River water.

Staff Recommendation

Option #1

	4/2/2013
Linda Waade Deputy General Manager, External Affairs	Date
	4/2/2013
Jeffrey Kightlinger General Manager	Date

Attachment 1 – Assembly Bill 1156

Ref# ea12624032

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL**No. 1156****Introduced by Assembly Member V. Manuel Pérez**

February 22, 2013

An act to amend Sections 1 and 6 of the Palo Verde Irrigation Act (Chapter 452 of the Statutes of 1923), relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1156, as introduced, V. Manuel Pérez. Palo Verde Irrigation District Act.

Existing law establishes the Palo Verde Irrigation District Act with the purpose of, among other things, providing a unified and comprehensive method of supplying the district, as defined, with water for irrigation and domestic uses and protecting lands within the district from flood waters of the Colorado River. Existing law requires any person, firm, or corporation which owns, or has any interest in, real property or improvements on real property, or both, whose interest or ownership is assessed on the last preceding equalized assessment roll of the district be entitled to vote at certain elections related to the district. The act entitles a property owner to one vote for every \$100 of assessed valuation on the equalized assessment roll, as specified.

This bill would entitle a person, firm, or corporation that owns land, or any interest in land, whose interest is assessed on the preceding equalized assessment roll of the district to vote at the specified elections. This bill would entitle each property owner to one vote for every \$100 of assessed value of land, not including improvements, on the equalized assessment roll.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

AB 1156

— 2 —

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

1 SECTION 1. Section 1 of the Palo Verde Irrigation District
2 Act is amended to read:

3 Section 1. (a) The State of California and the people thereof
4 are hereby declared to have a primary and supreme interest in
5 securing to the inhabitants and ~~property~~ owners of the ~~low-irrigable~~
6 ~~low-irrigable~~ lands within what is known as the "Palo Verde
7 ~~valley,"~~ Valley," in Riverside and Imperial ~~counties~~ Counties, the
8 greatest possible use, conservation and protection of the waters of
9 the Colorado ~~river~~ River to the extent that the same may be lawfully
10 diverted to their lands, to the end that their water system, ~~their~~
11 land, structures, and other properties may be protected from
12 overflow of the flood waters ~~of said~~ from the river, their swamp
13 lands drained, and thereby the greatest productivity of the largest
14 possible area may be accomplished and safely carried on within
15 reasonable limits of economy.

16 (b) *The Legislature hereby finds and declares the following:*

17 (1) *That as a special district, the purpose of the Palo Verde*
18 *Irrigation District is to secure to the district's landowners and*
19 *inhabitants the greatest possible use, conservation, and protection*
20 *of the waters of the Colorado River, to protect their water system,*
21 *land, structures, and other properties from overflow of the flood*
22 *waters from the river, and to reclaim swamp lands and thereby*
23 *promote the greatest productivity of the largest possible area of*
24 *land within reasonable limits of safety and the economy.*

25 (2) *That the owners of land in the Palo Verde Irrigation District*
26 *enjoy distinct benefits flowing as a result of the district's declared*
27 *purpose, and absorb specific costs related to this purpose, in the*
28 *form of assessments against land and water charges, and that*
29 *these landowners are therefore substantially affected by, and*
30 *directly interested in, the district's governance.*

31 **Investigation**

32 (c) *Investigation* having shown conditions in the Palo Verde
33 ~~valley~~ Valley to be peculiar to that valley, it is hereby declared that
34 a general law cannot be applicable thereto, and the enactment of
35 this special law is therefore necessary for the proper distribution
36 and use of the waters available for the valley, the protection of the
37 valley against inundation, the ~~reclamation~~ *reclamation* of the

1 swamp lands, and financing the development of the valley by the
2 means herein provided.

3 SEC. 2. Section 6 of the Palo Verde Irrigation District Act is
4 amended to read:

5 Sec. 6. Any person, ~~firm~~ *firm*, or corporation ~~owning any real~~
6 ~~property and/or the improvements thereon, that owns land~~ or any
7 interest in real property and/or the improvements thereon (but not
8 including personal property) which ~~land whose~~ interest or
9 ownership, ~~not including improvements on the land~~, is assessed
10 on the last preceding equalized assessment roll of the district (and
11 only the owners of ~~property~~ *land* so assessed) shall be entitled to
12 vote at any election, special or general, for the election of trustees,
13 or for any other purpose pertaining to the affairs of ~~said~~ *the* district.
14 Each property owner ~~so~~ qualified to vote shall be entitled to cast
15 one vote for ~~each~~ *every* one hundred dollars of assessed valuation
16 (\$100) or fraction thereof greater than fifty dollars, ~~as the same~~
17 ~~appears to have been~~ (\$50) of assessed value of land, not including
18 improvements on the land, on the equalized assessment roll of the
19 district last preceding the holding of the election. In determining
20 the total number of votes any voter is entitled to cast, the total
21 assessed value of all parcels *of the land* owned by the voter shall
22 be divided by ~~one hundred~~ *100*, and the quotient shall determine
23 the number of votes.