

Ordinance No. 18-23

Ordinance of the Board of Directors of the Rainbow Municipal Water District Repealing Ordinance No. 95-1

WHEREAS, the Rainbow Municipal Water District adopted Ordinance No. 95-1, “An Ordinance of the Rainbow Municipal Water District Enacting the Initiative Entitled ‘Two-Thirds Vote Required for Public Debt Initiative’ Pursuant to California Elections Code Section 9214,” on April 27, 1995; and

WHEREAS, according to Ordinance No. 95-1, it was adopted by the District’s Board of Directors as a result of a 1995 ballot initiative, in connection with which fifteen percent of voters within the District signed petitions supporting the initiative, in order to avoid the expense associated with calling a special election; and

WHEREAS, Ordinance No. 95-1 purports to restrict the District’s ability to incur additional public debt without first obtaining a two-thirds vote of the electorate whenever the District is already carrying cumulative debt in excess of one million dollars; and

WHEREAS, Ordinance No. 95-1 prevents the District from incurring debt as needed to meet the District’s fiscal and policy objectives, in a manner that is consistent with State law; and

WHEREAS, the Board of Directors has determined that that Ordinance No. 95-1 is invalid and unenforceable because it is inconsistent with the District’s enabling statute (see Water Code Section 71000 et seq.), it impairs essential government functions through interference with the District’s fiscal powers (see, e.g., *City of Atascadero v. Daly* (1982) 135 Cal.App.3d 466; *Geiger v. Board of Supervisors* (1957) 48 Cal.2d 832), and because neither a voter initiative, nor a governing body such as the District’s Board of Directors, can legislate in a manner that ties the hands of those who come later to exercise the authority (*Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, 220; see also *Vagim v. Board of Supervisors* (1964) 230 Cal.App.2d 286); and

WHEREAS, this Ordinance No. 18-23 was introduced at the Board of Directors’ meeting on September 18, 2018, after which notice of a public hearing to be conducted on October 23, 2018 was published in a local newspaper once a week for two successive weeks pursuant to Government Code section 6066, and thereafter the public hearing was conducted to receive any comments or objections from the public;

NOW, THEREFORE,

BE IT ORDAINED by the Board of Directors of Rainbow Municipal Water District as follows:

1. The District’s Ordinance No. 95-1 is hereby repealed in its entirety.
2. This Ordinance No. 18-23 shall take effect thirty (30) days after its adoption.
3. The Secretary of the District is hereby authorized and directed to publish a summary of this Ordinance in the newspaper within fifteen (15) days from the date of adoption. Upon written request, the Secretary shall also provide any interested person with a copy of this Ordinance.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of Rainbow Municipal Water District held on the 23rd day of October 2018 by the following roll call vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Helene Brazier, Board President

ATTEST:

Dawn Washburn, Board Secretary