XI. Enabling Legislation and Government Codes

A. Laws Governing Special Districts

1. FORMATION AND REORGANIZATION

There are three primary sources of authority for forming and reorganizing special districts. The first is the special district's enabling act. Most types of special districts have a series of statutes specific to that type of special district. These statutes often contain the procedures for creating that type of special district. The second is the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, which governs the establishment and reorganizations of local governments. Finally, there is the District Organization Law, which provides standardized special district organization and governance procedures for certain types of special districts.
This last authority does not apply to Golden West CSD.

- **Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000**
  Government Code §56000, et seq.
  Government Code §56821, et seq. (procedure for special district change of organization or reorganization)
  This law establishes certain procedures for local government changes of organization. This law also established local agency formation commissions (LAFCO) with numerous powers, including the ability to act on local agency boundary changes and the adoption of spheres of influence for local agencies. The statutory mission of (LAFCO) is to discourage urban sprawl and encourage the orderly formation and development of local agencies.

2. GOVERNANCE

Special districts not only serve their communities, they are accountable to them. Various election procedures ensure that communities maintain ultimate control of the districts they create and the decisions that are made. Transparency and accountability help to ensure the electorate is well informed regarding how each special district is performing the people's business. The following sections contain laws governing elections, and laws that ensure special districts remain transparent and accountable.

- **Elections**
  The most important way the community can oversee and direct their special districts is through elections. The following are some of the laws that govern when an election can or should be conducted and how those elections are to be conducted.

- **Advisory Elections**
  Elections Code §9603
  Local government agencies are permitted to hold advisory elections in order to allow all or a portion of voters within the jurisdiction to "voice their opinions on substantive issues, or to indicate to the local legislative body approval or disapproval of [a] ballot proposal." Under certain conditions, a local government agency may sponsor an advisory election outside its jurisdiction if the residents of the territory would be affected by a ballot proposal.

- **Consolidations of Election**
  Elections Code §10400, et seq.
  Local government agencies, including special districts, may consolidate their elections with statewide elections. Special districts wishing to consolidate their elections must abide by certain statutory requirements and procedures.

- **Mailed Ballot Elections**
  Elections Code §4000, et seq.
  Elections may be conducted entirely by mail if certain conditions are met. The governing body of the local government agency must authorize the use of mailed ballots for the election, the election must be held on an established mailed ballot election date, and the election must be of a qualifying type.

- **Uniform District Election Law**
  Elections Code §10500, et seq.
  The Uniform District Election Law (UDEL) is the general election law for many special district types. While some special district types may have their own unique election procedures within their enabling act, many enabling acts simply refer and incorporate the election procedures in the UDEL. If a principal act provides that the UDEL shall apply, the UDEL will control where it otherwise conflicts with the principal act. The UDEL does not apply to the election of officers upon formation of a district.

- **Vacancies**
  Government Code §1770, et seq.
  Some special districts have procedures for filling board vacancies contained within the district's enabling act. If not, Government Code §1770, et seq. provides the procedure for filling board vacancies. Section 1770 contains a long list of the conditions that will cause an elected seat to be considered "vacant." Among these conditions is the death of the officeholder, his or her resignation, removal from office, his or her refusal or neglect to file his or her required oath or bond, and the failure to discharge the duties of his or her office except when prevented by sickness or when absent from the state with permission required by law. For most special districts, the specific section providing the procedure for filling vacancies is found at Section 1780. Generally, the procedure requires the district to inform the county elections officials of the vacancy, and the remaining board members may either make an appointment or call an election to fill the vacancy. If the vacancy has not otherwise been filled, the county board of supervisors or city council (depending on the location of the district) can either appoint someone or order the district to call an election to fill the vacancy. This section contains deadlines for the above procedure and other provisions related to how to determine a quorum of the remaining board and the length of the term the board member appointed or elected to fill the vacancy will serve.

- **Transparency and Accountability**
  An important characteristic of local government in California is transparency and accountability to the public. These goals are enshrined within the California Constitution and are achieved through various state laws. Among the most familiar of these statutes are

the California Public Records Act and the Ralph M. Brown Act, both of which seek to ensure the public's business is conducted in the sunshine of public scrutiny.

- **Audits**
  Government Code §26909
  Special districts are required to have annual, independent audits conducted by the county auditor or a certified public accountant. This information is filed with the State Controller's Office. The annual audit can be changed to a biennial audit if approved unanimously by the district board and the board of supervisors, under certain restrictions.

- **California Public Records Act**
  Government Code §6250, et seq.
  The purpose of the California Public Records Act (CPRA) is to enable the public to have access to information needed to monitor the functioning of government. The public has a right to inspect public records during the office hours of any government agency and to request and obtain copies of records subject to the payment of fees covering the direct costs of duplication or a statutory fee if applicable. The CPRA contains a number of exemptions for certain classes of documents. These exemptions generally cover documents that are privileged or confidential, or which would infringe on the individual right to privacy. Examples of some common exemptions include documents protected by attorney client privilege, attorney work products, preliminary draft documents not retained by the agency in the ordinary course of business, and personnel records for which the disclosure would constitute an unwarranted invasion of privacy.

- **Ethics Training**
  Government Code §53234, et seq.
  Government Code §53232.1-5323.2 (authorization of compensation for training)
  Local elected officials and key officials designated by the local board (typically management staff) are required to take ethics training courses if the officials receive compensation or reimbursement in their position with a local government agency. This applies even if the official does not actually receive compensation or reimbursement, but if the district's enabling act simply allows for such compensation or reimbursement. By law, the affected local official must take an ethics training course once every two years, and the district has to establish a written policy on reimbursements.

- **High-Risk Local Government Agency Audit Program**
  Government Code §8546.10
  This law authorizes the State Auditor to establish a high-risk local government agency audit program to identify, audit, and issue reports on any local government entity the State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement, or that has major challenges associated with its economy, efficiency, or effectiveness.

- **Incompatibility of Office Doctrine**
  Government Code §1125, et seq.
  Local officials cannot engage in any employment or activity that is in conflict with their duties as local agency officers or with the duties or responsibilities of the agency by which they are employed. An employee's outside employment may be prohibited if it involves:
    - The use of the agency's resources for private advantage, or
    - Receiving money or other considerations from anyone other than their local agency for the work they are expected to complete as part of their duties as a local agency employee, or
    - The performance of work for compensation in a non-agency capacity where such work will be subject to approval of the agency, or
    - Time demands that would interfere with the performance of their duties or make them a less efficient employee.

- **Municipal Service Reviews**
  Government Code §56430
  LAFCOs are required to update local agency spheres of influence every five years. As a prerequisite for a sphere of influence update, the LAFCO must conduct a municipal service review (MSR). An MSR evaluates the services currently provided by local agencies and their potential future growth. Among other things, the MSR must address the jurisdiction's population growth and projections, the adequacy of services and infrastructure of the agency, the financial ability of the agency, and the status of and opportunities for shared facilities. A copy of the GWCSD's MSR from 2016 is available on the El Dorado County LAFCO website, as well as the GWCSD's website.

- **Political Reform Act of 1974**
  Government Code §81000, et seq.
  The Political Reform Act (PRA) was passed by voters via Proposition 9 in 1974. It is designed to ensure elections are fair and that state and local government officials perform their duties impartially and serve all citizens equally. The PRA generally governs political campaign spending and contributions. A variety of ethics rules for state and local government officials are also contained in the PRA. For example, the PRA prohibits an official from the ability to participate in a decision or "use his or her official position to influence" a decision in which the official "knows or has reason to know that he or she has a financial interest." The PRA also created the Fair Political Practices Commission, which is charged with administering the PRA and investigating and prosecuting PRA violations. A knowing or willful violation of the PRA is a misdemeanor and certain violations could result in a fine up to $10,000 or three times the amount "the person failed to report properly or unlawfully contributed, expended, gave, or received."

- **Ralph M. Brown Act**
  Government Code §54950, et seq.
  The Ralph M. Brown Act (Brown Act) is designed to ensure government actions and deliberations are conducted openly so that the people "may retain control over the instruments they have created." The Brown Act accomplishes this by requiring meetings of local government bodies be conducted during noticed public meetings. Violations of the Brown Act can lead to invalidation of local agency actions, payment of a challenger's

attorney's fees and, in some cases, criminal prosecution. The primary requirement of the Brown Act is that meetings of a local government agency's legislative body be open to the public, allow for public comment and be publicly noticed 72 hours in advance of the meeting. The Brown Act contains procedures for conducting special meetings, emergency meetings, and closed sessions. The Brown Act also limits the ability for a quorum of a legislative body to discuss certain matters outside a noticed public meeting.

3. PUBLIC WORKS

Public contracting law covers a wide range of projects, improvements, and maintenance a special district may engage in. Different laws and requirements may apply for different types of projects or expenditures. For example, all public works projects over $1,000 will require payment of prevailing wage but not all projects will require formal bidding procedures be followed.

- **California Environmental Quality Act (CEQA)**
  Public Resources Code §21000, et seq.
  Code of Regulations §15000, et seq.
  CEQA is designed to require public agencies to consider environmental protection whenever making a decision regarding proposed projects and activities, and to allow for public participation in that process. If a project is not exempt from CEQA and is determined to have the potential to have a significant environmental impact, the lead agency is required to conduct an initial study of the project. The lead agency will then determine whether to conduct an environmental impact report or a negative declaration. While the scope and process of those documents is somewhat different, both require a period for public comment. CEQA Guidelines are produced by the California Resources Agency and codified in the California Code of Regulations Title 14 §15000, which provides procedures and factors lead agencies should consider when conducting CEQA reviews.

- **Contracting and Bidding**
  Public Contract Code §1100-9203 (generally applicable)
  Public Contract Code §20100, et seq. (special district-specific)
  The Public Contract Code generally requires public agencies, local governments, and special districts to award contracts to "the lowest responsible bidder." These statutes often contain provisions relating to how bidding for the contract should be advertised, how bidding should be conducted, and in what circumstances the lowest bid can be rejected. The purpose of bidding requirements is to ensure all qualified bidders have "a fair opportunity to enter the bidding process" and to "eliminate favoritism, fraud, and corruption in the awarding of public contracts." Because there are specific bidding statutes applicable to different types of special districts, the projects that must be bid will vary by district type. This variation includes the total project cost and the types of projects that will trigger bidding procedures. Bidding is generally only required when a special district is contracting for construction services or the supply of materials. Contracts for personal services, including architectural, land surveying, and construction project management are not subject to "lowest responsible bidder" requirements. Bidding requirements are generally contained within a district's enabling act. A small number of special district types are not subject to

any bidding requirements because there is no statute imposing them on the district. These districts are free to determine their own contracting procedures through board policy.

- **Excess Property (special districts)**
  Government Code §50568, et seq. and §54220, et seq.
  Each local government agency is required to inventory all property it holds or controls to determine if there is any in excess of the agency's foreseeable needs. A list of excess properties must be made available to the public without charge. The local agency may sell or lease the excess property to certain entities for the purpose of developing affordable housing. The deed must specify that title will revert to the local government agency upon certain conditions. If excess property is not sold for affordable housing purposes, it must be offered for park or open space purposes, school facilities, enterprise zone purposes, or for developing property located within an infill opportunity zone or transit village plan.

- **Prevailing Wage**
  Labor Code §1720, et seq.
  Prevailing wage must be paid for all "public works," which are defined broadly to include any "construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part of public funds…" over $1,000. "Public works" is more fully defined in the Labor Code and contains a number of exceptions. SB 854, passed in 2014, made a number of changes to the prevailing wage law. Most important for awarding entities is the requirement that contractors register with the Department of Industrial Relations (DIR) in order to be eligible to be awarded a public works contract. Awarding entities must notify contractors of the registration requirement in bidding documents. The DIR was tasked with developing a web-based database so that awarding entities can easily determine the registration status of a contractor.

- **Uniform Public Construction Accounting Act**
  Public Contract Code §22000
  In an effort to promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by local agencies, the Legislature established the Uniform Public Construction Accounting Act (UPCAA) as an alternative method for the bidding of public works projects by public entities. Public agencies can take advantage of increased bidding thresholds and other benefits provided by the UPCAA if it elects to follow the cost accounting procedures contained in the *Cost Accounting Policies and Procedures Manual* of the California Uniform Construction Cost Accounting Commission. The procedures generally are used to estimate project costs to determine whether bidding is required and to record actual project costs when the project is performed by the agency's own workforce. The *Cost Accounting Policies and Procedures* Manual includes sample forms. The alternative bidding thresholds are:
    - Public Projects $45,000 or less – negotiated contract or by purchase order.
    - Public Projects $45,001-$175,000 – informal bidding procedures set forth in UPCAA.
    - Public Projects greater than $175,000 – formal bidding procedures.

4. REVENUE AND FINANCE

The primary sources of revenue for special districts are *ad valorem* property taxes, special taxes, assessments, fees, and bonds. The California Constitution and various statutes play a large role in permitting as well as limiting districts' abilities to receive and utilize revenue from these sources. This guide will first address the fundamental statutes and constitutional provisions relating to these revenue sources. Next, we'll look at some of the laws that relate or restrict how special districts may spend revenues. Finally, this guide will highlight other important statutes related to special district revenue and financing.

- **Fundamental Revenue Provisions**
  A number of California State Constitution provisions and other statutes form the basic foundation of special district finance. These include laws that govern how property tax is collected and distributed, limits on property tax increases, and the methods by which special taxes can be assessed.

- **Ad Valorem Property Tax**
  California Constitution Article XIII A and XIII A
  The term "ad valorem" is derived from Latin meaning "to the value" or "based on value." Ad valorem property taxes are taxes based upon the value of property. Proposition 13 limited the amount of tax that can be levied to 1 percent of the property's value. Proposition 13 also gave the State the authority to distribute this revenue, which it has done through formulas contained in Assembly Bill 8 (1979) and subsequent legislation. The value of property is assessed upon a change in ownership and adjusted upward each year by a rate not to exceed 2 percent to account for inflation. Ad valorem property taxes are a fundamental source of funding for most local governments and the primary source of revenue for many special districts.

- **Assembly Bill 8 (1979)**
  Revenue and Taxation Code §95, et seq.
  This is the primary statute used to implement the constitutional changes created by Proposition 13. AB 8 contains a formula, which is used to distribute each county's 1 percent *ad valorem* property tax among the local government agencies in the county. The proportionate share is generally based upon the property taxes each local government agency received prior to 1978. AB 8 was also designed to provide some relief to local government agencies struggling due to the effects of the passage of Proposition 13.

- **Assessments**
  California Constitution Article XIII D
  A special district may finance the maintenance and operation of public systems that include, but are not limited to, drainage, flood control, and street lighting. Assessments are involuntary charges on property owners, who pay for these public works based on the benefit their properties receive from the improvements through increased property values. Assessments include special, benefit, and maintenance assessments, and special assessment taxes. Assessments are subject to a weighted election.

- **Education Revenue Augmentation Fund (ERAF)**
  Revenue and Taxation Code §96, et seq.
  Starting in 1992, in response to the state's budget woes, the Legislature implemented the first ERAF, shifting property tax revenue from local governments to schools, thus relieving the state of some of its fiscal responsibility to fund schools. A second shift (ERAF II) was implemented in 1993, but took less from local governments and exempted health and safety agencies. Both are still ongoing. In 2004, in a compromise with the local governments, a third shift (ERAF III) was allowed to take place, but only for two years, and significant restrictions were placed on the state's ability to raid local government funding through Proposition 1A.

- **Fees**
  California Constitution Article XIII D
  A fee is a charge to an individual or a business for a service provided directly to the individual or business. Non-property related fees are not subject to majority vote requirements. Property related fees may not be extended, imposed, or increased without first complying with the procedural requirements of Proposition 218. There are also substantive requirements that property related fees must comply with, the most important of which is the fee imposed must not exceed the proportional cost of the service attributable to the parcel or person charged.

- **Proposition 1A (2004)**
  California Constitution Articles XI §15, XIII §25.5 and XIIB §6
  Proposition 1A amended the California Constitution to limit the ability of state government to shift tax revenue from local governments, as was done for the 1992-93 and 1993-94 ERAF shifts. Proposition 1A was a compromise between local governments and the state. This measure allowed a final shift (ERAF III) lasting two years, and created strict limitations for future shifts. CSDA was part of the coalition (LOCAL) that worked to pass Proposition 1A.

- **Proposition 13 (1978)**
  California Constitution Article XIII A
  Proposition 13, officially named the "People's Initiative to Limit Property Taxation", was the first in a series of propositions directed at altering the way state and local governments levy and collect taxes. The primary feature of Proposition 13 was its limit on *ad valorem* property taxes contained in Section 1(a) of the measure: "The maximum amount of any ad valorem tax on real property shall not exceed one percent (1 percent) of the full cash value of such property…" Prior to Proposition 13 local governments generally had the authority to establish their own property tax rates. Proposition 13 transferred this authority to the State, which became responsible for allocating property tax revenue among local governments. It did this through Assembly Bill 8 (1979) and subsequent legislation. Finally, Proposition 13 eliminated the practice of annually assessing property value. Instead, Proposition 13 provides that property can only be reassessed upon a change of ownership, but also allows for assessed values to be increased based on an annual inflation factor not to exceed 2 percent.

- **Proposition 62 (1986)**
  Government Code §53720, et seq.
  Proposition 62 provided further requirements for the adoption of special taxes by local agencies. This proposition prohibits a local agency from imposing a tax for specific purposes (a "special tax") unless it is approved by two-thirds of the voters, or a tax for general purpose (a "general tax"), unless it is approved by a majority of the voters.

- **Proposition 218 (1996)**
  California Constitution Articles XIII C and XIIID
  Proposition 218, officially named the "Right to Vote on Taxes Act," made several changes to the California Constitution affecting the ability of special districts and local governments to asses taxes, assessments, and fees. This proposition established the initiative power allowing voters to reduce or repeal any local tax, assessment, fee, or charge. A new category of fee was created called "property related fees and charges" and required that such fees be no more than the cost of providing the service the fee is for. Proposition 218 also established a number of other procedural requirements for levying assessments and imposing new, or increasing existing, property related fees and charges.

- **Special Taxes**
  California Constitution Articles XIII A §4 and XII C §2
  Government Code §50075, et seq., 53970, et seq.
  A special tax is a property tax imposed for a specific, or "special" purpose. Special taxes are taxes – not fees, charges, or special assessments – and as such the amount of the tax is not limited to the relative benefit each property owner will receive. Unlike the 1 percent ad valorem property tax, which is based on property value, these taxes are typically levied on parcels based either on square footage or as a flat charge. A local government may impose, extend, or increase a special tax only if the proposal is submitted to the electorate and approved by a two-thirds vote. Special taxes may be reduced or repealed by popular initiative. All taxes imposed by a special district are inherently special taxes (as opposed to general taxes) because districts are service specific and can only use funds for those specific purposes.

- **Spending**
  Special districts are limited in the way they spend public funds and the amounts that may be spent. Special districts are also subject to various reporting requirements to ensure the public can hold districts accountable for the prudent spending of public funds.

- **Appropriations Limit (Gann Limit)**
  California Constitution Article XIII B
  Government Code §7900, et seq.
  The Appropriations Limit (often referred to as the "Gann Limit") provides a limit (or ceiling) on local government agency appropriations of tax proceeds. This limit is based on the amount of appropriations in the 1978-79 "base year" and is adjusted each year for population growth and cost-of-living factors. The limit applies to proceeds from taxes, investment earnings on taxes, and fees and charges. If the agency's proceeds are in excess of the limit, excess amounts are to be turned over to the state to be used for school funding. Special districts are specifically included in the definition of "local government[s]" subject

to the appropriations limit. However, there is an exception for "any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 1/2 cents per $100 of assessed value." There is also an exception for districts that are funded entirely from proceeds other than taxes.

- **Bond Oversight**
  Government Code §53410, et seq.
  Any local bond that is subject to voter approval, and provides for the sale of bonds by a special district, must be transparent. A special district must file a report that indicates the purpose of the bond and the account into which the proceeds will be submitted, as well as an annual report on how bond proceeds were actually spent.

- **Compensation**
  Compensation of special district board members, commissioners, and trustees varies by principal act, as do any provisions related to increases in compensation. Check the district principal act for procedures for a specific district type.

- **Gift of Public Funds**
  California Constitution Article XVI §6
  The California Constitution prohibits the giving, lending, and gifting of public money to any person, association, or corporation. However, the prohibition on "gifts" has been interpreted to exclude expenditures that incidentally benefit a private recipient, and which promote a valid and substantial public purpose within the authorized mission of the public agency appropriating the funds. Whether a certain expenditure falls within the prohibition of gifts of public funds can depend on the nature of the expenditure, the nature of the claimed public purpose, and the extent the expenditure will contribute to that purpose.

- **Special Taxes Oversight**
  Government Code §50075.1, §50075.3, and §50075.5
  Local officials are required to issue annual reports on how they spend special tax revenues. The report includes the amount of funds collected and spent, as well as the status of projects for which the special tax was implemented.

- **Other Revenue Provisions**
  The following contains various laws which provide alternative revenue avenues available to special districts. These include statutorily authorized investment funds, general and revenue bond provisions, and Mello-Roos financing.

- **Benefit Assessment Act of 1982**
  Government Code §54703, et seq.
  This law provides a mechanism for financing the maintenance and operation of public systems such as drainage, flood control, and street lighting. Since it is considered a benefit assessment, the Act is not subject to Proposition 13 limitations. However, a district that uses this mechanism must first prepare a written report, hold a noticed public hearing, and obtain a majority vote through an assessment balloting procedure of the affected property owners.

- **CalTRUST**
  Government Code §6500, et seq.
  CalTRUST is a joint powers agency that offers special districts and other local agencies a convenient method for pooling investments with other local government agencies with three options – money market, short-term and medium-term accounts. Total assets in the CalTRUST investment pool total over $2 billion, nearly a third of which are from special district investments.

- **Enhanced Infrastructure Financing Districts**
  Government Code §53398.50, et seq.
  Enhanced Infrastructure Financing Districts can be created by municipalities in partnership with other local agencies (except school-related agencies) to invest tax increment revenues in local infrastructure projects. Tax increment is the future incremental growth in property tax revenues. Special districts may "opt-in" by pledging part or all of their tax increment to these infrastructure projects.

- **General Obligation Bonds and Revenue Bonds**
  Government Code §53400, et seq.; Various Provisions
  General obligation bonds are issued by special districts and other local and state governments to finance a variety of infrastructure projects and services. There are a variety of statutes that create authority for the issuance of bonds – some principal acts for district types contain bond provisions and various other statutes grant bond authority for different uses and with different conditions. General obligation bonds are backed by all of an agency's revenues whereas revenue bonds are backed by a specifically identified revenue source.

- **Interest Rate Limit on Local Bonds**
  Government Code §53530, et seq.
  State law limits the interest rate on local bonds. Although authority is provided to local agencies to issue bonds bearing interest at the coupon rate or as determined by the legislative body in its discretion, the interest rate may not exceed 12 percent per year, unless some higher rate is permitted by law.

- **Investment of Funds**
  California Constitution Article XI §11
  Government Code §53600, et seq.
  The California Constitution provides that the Legislature may authorize local government agencies to invest funds in certain specified vehicles. The Legislature has provided that local government agency surplus funds may be invested, with certain conditions and limitations.

- **Local Agency Investment Fund**
  Government Code §16429.1, et seq.
  The Local Agency Investment Fund is a trust in the custody of the State Treasurer. Local government agencies may deposit money not required for immediate needs into the fund for investment purposes. This fund gives special districts the opportunity to participate in a major portfolio, utilizing the investment expertise of the Treasurer's Office, at no additional cost to taxpayers.

- **Mello-Roos Community Facilities Act**
  Government Code §53311, et seq.
  The Mello-Roos Community Facilities Act provides a method for special districts and other local government agencies to finance major capital improvements and some types of services. The act authorizes the creation of Community Facilities Districts which can levy special taxes subject to two-thirds voter approval or by land owner votes, weighted by acreage owned, if there are less than 12 registered voters within the district.

- **Mark-Roos Local Bond Pooling Act of 1985** *Government Code §6584, et seq.*
  The Mark-Roos Bond Pooling Act allows local government agencies to enter into a joint powers agreement creating a Joint Powers Authority, which can issue Mark-Roos bonds and loan the proceeds to the local government agencies. The purpose of this act is to allow local government agencies to take advantage of the lower borrowing costs associated with bond pools.

- **Securitized Limited Obligation Notes**
  Government Code §53835, et seq.
  Special districts may issue securitized limited obligation notes (SLONs) and borrow up to $2 million to be paid back from designated revenues over a ten year period. SLONs are a more secure and less expensive alternative to promissory notes and do not require voter approval. However, a special district must secure its SLONs by pledging a dedicated stream of revenues. It takes a four-fifths vote of a district's government board to issue SLONs. The authorization for the issuance of SLONs ends December 31, 2019.

- **Surplus Land (sold by the state)**
  Government Code §11011.1
  State departments that are selling surplus land (as defined) must first make that land available to local jurisdictions, including special districts, to purchase at fair market value.

- **State Mandated Local Programs**
  California Constitution Article XIII B §6
  Government Code §17500, et seq.
  The California Constitution, as amended by Proposition 1A, requires local governments to be reimbursed for the cost of mandated new programs or higher levels of service. The Commission on State Mandates was established to determine if new laws impose reimbursable state mandated programs. If the Commission finds that a mandate is reimbursable, this automatically triggers a requirement that the state government either reimburse or suspend the mandate. If a mandate is suspended, the associated requirement for local government agencies becomes optional for the fiscal year, and no money will be allocated to local governments for reimbursements for that fiscal year.

5. SPECIAL DISTRICT PRINCIPAL ACTS

Principal acts are statutes established for an entire category of special districts. Local voters create and govern special districts under the authority of these acts. Each special district type (for example, flood control, public utilities, or community services districts) has its own principal act. The following describes GWCSD's special district type, the location of the associated principal act, and other relevant information about the district type.

- Community Services District, Govt. Code Section 61000 et.seq.
- Provides road construction and maintenance services
- Elected by resident voter to 4-year terms
- 5 Directors

6. ADDITIONAL RESOURCES

The following is a list of some additional publications and resources, which cover in greater depth the topics addressed in this guide.

- **FORMATION AND ORGANIZATION**
  - Guide to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (2002), Assembly Local Government Committee
  - It's Time to Draw the Line: A Citizen's Guide to LAFCO (May 2003), Senate Local Government Committee

- **GENERAL INFORMATION**
  - Hawkins Report, (1974), Local Government Reform Task Force
  - Special Districts: Relics of the Past or Resources for the Future? (May 2000), Little Hoover Commission
  - What's So Special About Special Districts (October 2010), Senate Local Government Committee

- **GOVERNANCE**
  - A Local Official's Guide to Ethics Laws (2005), Institute for Local Government
  - Integrity and Accountability: Exploring Special Districts' Governance (November 2003), Senate Local Government Committee
  - Open & Public IV: A Guide to the Ralph Brown Act (2007), League of California Cities
  - Open, Ethical Leadership: AB 1234 Compliance Training for Special Districts, California Special Districts Association
  - Political Reform Act (2007), Fair Political Practices Commission
  - Summary of the California Public Records Act (2004), California Attorney General's Office
  - The Brown Act: Open Meetings for Local Legislative Bodies (2003), California Attorney General's Office

- **INDEPENDENT SPECIAL DISTRICT TYPE SPECIFIC**
  - A New Law for a New Mission: SB 515 and the Fire Protection District Law of 1987 (October 1987), Senate Local Government Committee
  - Community Services, Community Needs (March 2006), Senate Local Government Committee
  - For Years to Come: A Legislative History of SB 341 and the "Public Cemetery District Law" (August 2004), Senate Local Government Committee
  - Parks, Progress and Public Policy: A Legislative History of Senate Bill 707 and the "Recreation and Park District Law" (October 2001), Senate Local Government Committee
  - Science, Service, and Statutes: A Legislative History of Senate Bill 1588 and the "Mosquito Abatement and Vector Control District Law" (September 2003), Senate Local Government Committee

- **PUBLIC WORKS**
  - Guide to CEQA, Solano Press Books

- **REVENUE AND FINANCE**
  - Assessing The Benefits of Benefit Assessment, 2nd Edition (December 2004), Senate Local Government
  - Property Taxes: Why Some Local Governments Get More Than Others (August 1996), Legislative Analyst's Office
  - Proposition 26 Guide for Special Districts, (2013), California Special Districts Association
  - Proposition 218 Guide for Special Districts, (2013), California Special Districts Association
  - Special District Reserve Guidelines, (2013), California Special Districts Association
  - The State Appropriations Limit (April 2000), Legislative Analyst's Office
  - Understanding Proposition 218 (December 2006), Legislative Analyst's Office

The above information was reproduced from CSDA website.

B. New California Laws for 2017

1. This first law became effective in January 2014, but has an effect on board actions:

- **SB 751 (Yee) – Amending Section 54953 To Require Reporting of Actions Taken And The Vote Of Each Member Present**

  SB 751 added subsection (c)(2) to Section 54953. Under this new provision, legislative bodies of local agencies must publicly report: (1) any action taken and (2) the vote or abstention on each action taken by each member present for the action at a meeting. The bill is effective January 1, 2014. In order to comply with these requirements, legislative bodies must verify the vote or abstention of each member, and publicly announce the action taken and the vote or abstention of each member in attendance. This information should also be noted in the minutes. As a practical matter, votes may need to be taken by roll call or in another manner that allows verification of the vote of each member in order to comply with the requirements of SB 751.

  The Brown Act already requires legislative bodies to report individual votes on actions taken during teleconferenced meetings and on certain actions taken in closed session. SB

751 will extend this requirement to actions taken in open session in any meeting of a legislative body subject to the Brown Act. The legislative history of the bill indicates that its purpose is to improve the ability of the public and others who monitor legislative meetings of local agencies to know how members voted on a particular action.

2. New Laws of 2017 Part I: Parcel Taxes and Property Related Fees

This article leads off a series of e-News articles focusing on new laws that will impact special districts. Assembly Bill 2476 (Daly) and Assembly Bill 2801 (Gallagher) were signed into law on September 9, 2016, and August 30, 2016, respectively. Beginning January 1, 2017, these two bills will create new procedural and record-keeping requirements for special districts when levying parcel taxes or property-related fees.

- **Assembly Bill 2476 (Daly)**

  AB 2476 adds section 54930 to the Government Code and requires a local agency to provide notice of a new parcel tax to an owner of a parcel affected by the new tax if that owner does not reside within the jurisdictional boundaries of the taxing entity. The notice must contain certain information, including: 1.) the amount or rate of the parcel tax in sufficient detail to allow the property owner to calculate the amount of the tax to be levied against the owner's property; 2.) the method and frequency for collecting the tax; and 3.) the telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information. The form of the notice is included in the legislation.

  AB 2476 is a state-mandated local program due to the fact that it imposes new duties upon local officials, which normally requires reimbursement for reasonable costs from the State. However, because AB 2476 authorizes local agencies to be reimbursed for reasonable costs of compliance with proceeds of the subject parcel tax, such agencies are not entitled to reimbursement from the State.

- **Assembly Bill 2801 (Gallagher)**

  California Constitution Article XIII D, Section 6 (commonly referred to as Proposition 218) generally requires that any local agency proposing to increase or impose a new property-related fee must provide written notice by mail to the record owner of each parcel upon which the fee will be imposed and hold a public hearing not less than 45 days after the mailing of the notice. If a majority of property owners send written protests to the new fee or increase, the fee may not be imposed. The Proposition 218 Omnibus Implementation Act (Government Code Section 53750, et seq.) prescribes certain procedures and parameters for local jurisdictions to comply with Article XIII D, including that one written protest per parcel, filed by an owner or tenant of the parcel, is counted in calculating a majority protest to a proposed new or increased property-related fee.

  AB 2801 amends Government Code Section 53755 and requires that any written protests submitted to a local agency be retained by the local agency for a minimum period of two years following the date of the public hearing. Local agencies that impose property-related fees should consider amending their records retention schedules to reflect this new requirement.

  Similar to AB 2476, AB 2801 is a state-mandated local program because it increases duties of local officials. The Commission on State Mandates is determining whether AB 2801 will

contain costs mandated by the State. If so, local agencies will be entitled to reimbursement for such costs from the State.

3. New Laws of 2017 Part 2: Debt Reporting

This article is the second in a multi-part e-News series focusing on new laws that will impact special districts in 2017.

- **Senate Bill 1029 (Hertzberg)** was signed into law on September 12. Beginning January 1, 2017, this bill will require the state to track and report on all new state and local government debt until it is fully repaid or redeemed.

  Senate Bill 1029 (Hertzberg)

  SB 1029 amended Government Code Section 8855(i), which requires California's state and local public agencies to submit a Report of Proposed Debt Issuance (RPDI) to the California Debt and Investment Advisory Commission (CDIAC) no later than 30 days prior to the issuance of any debt.

  Local agencies will now have to certify on the RPDI that they have adopted debt policies that include specific statutorily required elements and that the proposed issuance is consistent with those policies.

  Additionally, SB 1029 added Section 8855(k) to the Government Code. The new section includes a requirement for state and local agencies to submit a Debt Accountability Report (DAR) to CDIAC on the status of any debt for which it has submitted a Report of Final Sale (RFS) on or after January 21, 2017. The DAR shall cover the reporting period of July 1 to June 30 and it must be submitted to CDIAC no later than January 31 of each year; with the initial reports due no later than January 31, 2018

4. New Laws of 2017 Part 3: Special District Audits

This article is the third in a multi-part eNews series focusing on new laws that will impact special districts in 2017. CSDA sponsored Assembly Bill 2613 (Achadjian) was signed into law on August 22. Beginning January 2017, this bill authorizes special districts to replace their required annual audit with an annual financial compilation or an agreed-upon procedures engagement if certain conditions are met.

- **Assembly Bill 2613 (Achadjian)**

  AB 2613 amended Government Code Section 26909, beginning January 1, 2017, to authorize a special district with annual revenues of $150,000 or less to replace its annual audit with an annual financial compilation or with an agreed upon procedures engagement. AB 2613 provides smaller special districts with options to reduce the overall costs associated with audit regulations while still maintaining appropriate financial oversight. Specifically, AB 2613 authorizes additional alternatives to the annual audit requirements for special districts that both process their financial transactions through the county's financial system and have annual revenues below $150,000. Special districts that meet these two requirements may, upon unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace their annual audit, for up to five consecutive years, with an agreed-upon procedures engagement, or an annual financial compilation performed by the county auditor. They must complete an annual audit after five years.

Both of these new options for small districts utilizing their county's financial system will reduce the time needed for auditors to perform their work, thereby reducing billable hours and lowering the overall costs of meeting the state's auditing requirements. The bill prohibits a district from using this alternative for more than five consecutive years without having an annual audit, which will, coupled with the requirement to receive unanimous approval from the board of supervisors who will likely seek input from the county auditor, maintain appropriate financial oversight.
Interested districts should review all current policies and any potential covenants or restrictions with other parties to ensure there are no outside requirements for an audit before making any changes.

5. New Laws of 2017 Part 4: New Brown Act Website Requirement

This article is the fourth in a multi-part eNews series focusing on new laws that will impact special districts in 2017. Assembly Bill 2257 (Maienschein) was signed into law on September 9. Beginning on January 1, 2019, this bill requires online posting of an agenda for a meeting of a legislative body of a city, county, city and county, special district, school district, or political subdivision that has a website. It must be posted on the local agency's primary website homepage and accessible through a prominent, direct link, as specified.

- **Assembly Bill 2257 (Maienschein)**

  The Ralph M. Brown Act (Gov. Code, §§ 5495, et seq.) requires special districts and other public agencies to post regular meeting agendas at a location that is freely accessible to members of the public and on their website, if they have one. Until recently, the Legislature had left the particular manner of posting and agenda format to the discretion of the agency. Beginning on January 1, 2019, however, public agencies' meeting agendas must conform to the requirements of AB 2257 (Maienschein), which regulates where on an agency's website an agenda can be posted and the electronic format of the agenda itself.

  Agenda Format

  Currently, no particular format is required for meeting agendas posted on agency websites. Many agencies use PDF or WORD files, while others use different formats or embed the content of the agenda directly within the website. AB 2257 does not directly restrict what file types may be used but does require that, whatever the format, the agenda must be posted in an open format that meets the following requirements:

  - Retrievable, downloadable, indexable, and electronically searchable by commonly
  - used Internet search applications.
  - Machine readable and able to be opened by a variety of software on different platforms.
  - Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

  Agenda's Location on the Agency Website

  AB 2257 also now requires the current agenda be accessible through a "prominent, direct link" on the agency's website homepage. This means that, when clicked, the link on the homepage will immediately display the current agenda. The direct link to the current agenda cannot solely be in a contextual (i.e. "drop down") menu. Such a link in a contextual menu is only permissible as an addition to the direct link on the homepage. This means that

agendas that are currently linked through a “Governance” or “Board” page, must be modified.

Use of "Integrated Agenda Management Platforms"

As an alternative to a direct link to the current agenda, an agency can instead have a direct link to an "integrated agenda management platform." AB 2257 defines this type of platform as an "Internet Web site of a [public agency] dedicated to providing the entirety of the agenda information for the legislative body of the [public agency]." As with a direct link to the current agenda, the direct link to the integrated agenda management platform must be on the homepage itself and not in a contextual menu. The integrated agenda management platform may contain past meeting agendas but the current agenda must be the first available at the top.

The new agenda requirements created by AB 2257 go into effect January 1, 2019. Special districts should evaluate the placement of a prominent direct link to the current agenda or integrated agenda management platform on their homepages and consider any necessary modifications to their website program to meet the technical requirements created by AB 2257.

6. New Laws of 2017 Part 5: Public Contract Change Orders

This article is the fifth in a multi-part e-News series focusing on new laws that will impact special districts in 2017.

- **Assembly Bill 626 (Chiu)** was signed into law on September 29. This bill establishes a claim resolution process applicable to any claim by a contractor in connection with a public works project for contracts entered into or after January 1, 2017.

  Assembly Bill 626 (Chiu)

  Beginning January 1, 2017, public agencies must follow a new process for resolving contractor change orders on public works projects. The process applies to all claims for (1) time extensions, (2) payments for additional work, and (3) payments of disputed amounts. There is also a mechanism for subcontractors to make their claims through the contractor. For contracts entered on or after January 1, 2017, agencies must do the following:

- Review a claim and issue a written statement within 45 days as to what portions are disputed and undisputed;
- Pay undisputed portions within 60 days (late payments bear interest at 7%);
- If requested, schedule a settlement conference to negotiate disputed portions;
- Issue a statement of items remaining in dispute within 10 days after the conference;
- Pay remaining undisputed portions within 60 days, following the conference;
- Enter non-binding mediation regarding issues that remain in dispute; and
- State the text of AB 626 provisions, or summarize them, in project plans or specifications.

The new resolution scheme, set forth in Public Contract Code § 9204, has strict timing requirements for each of these steps. Unless renewed, the statutes in AB 626 expire on December 31, 2019. The above information was reproduced from CSDA E News.