

**Fillmore and Piru Basins Groundwater Sustainability Agency  
Board of Directors Meeting**

October 30, 2017 - 6:00 p.m.

City of Fillmore City Hall, City Council Chambers  
250 Central Avenue, Fillmore, CA 93015

**AGENDA**

**1. Call to Order**

**2. Pledge of Allegiance**

**3. Public Comments**

Members of the public may address the Board on any matter on the agenda or on any non-agenda item within the jurisdiction of the Board. No action will be taken by the Board on any non-agenda item. All comments are subject to a five-minute time limit.

**4. Approval of Agenda**

**Motion**

**5. Director Announcements/Board Communications**

**6. Interim Executive Director Update**

**Information Item**

The Interim Executive Director will provide an informational update on Agency activities since the previous Board meeting of September 18, 2017

**7. INFORMATION ITEMS**

**A. Update on RFP for Legal Services**

**Information Item**

Interim Executive Director will provide a progress report on Agency's Request for Proposal for Legal Services.

**B. Brown Act, Rosenberg's Rules of Order and Other Important Information**

**Information Item**

Clerk of the Board for Ventura County Board of Supervisors Brian Palmer will present an overview of the Brown Act, Rosenberg's Rules of Order and other important information and guidelines for public meetings.

## **8. CONSENT CALENDAR**

### **A. Approval of Minutes**

Approval of the minutes from the Board Meeting of September 18, 2017

## **9. ACTION ITEMS**

### **A. Ventura County Cash Advance Agreement**

#### **Motion**

The Board shall consider approving the agreement for cash advance with the County of Ventura.

### **B. Website design and hosting County of Ventura Information Technology Services Department**

#### **Motion**

The Board shall consider approving the estimate and hiring the County of Ventura Information Technology Services Department for website design, construction and hosting services creating the Fillmore and Piru Basins Groundwater Sustainability Agency website.

### **C. Revised Resolution 2017-02 Conflict of Interest Code**

#### **Motion**

The Board shall consider approving the revised Resolution 2017-02 and adopting the amended Conflict of Interest Code based upon feedback from the County of Ventura Clerk of the Board of Supervisors.

### **D. Resolution 2017-03 Proposition 1 Groundwater Sustainability Grant Program**

#### **Motion**

The Board will consider a Resolution to authorize the preparation and submittal of a grant application to the California Department of Water Resources for Proposition 1 Groundwater Sustainability Plan Grant

### **E. Cost Reimbursement Agreement with United Water Conservation District**

#### **Motion**

The Board shall consider approving a cost reimbursement agreement with the United Water Conservation District

### **F. Future Workshop and Meeting Dates**

#### **Motion**

The Board will review potential scheduling dates for workshops and meetings and direct the Interim Executive Director to schedule these items accordingly:

1. Special Board Meeting to review and approve Prop 1 DWR Grant application PRIOR TO November 13 submission deadline

2. Review and select from Proposals for Legal Services, inviting selected legal firms to present to the Board at the Regular Board Meeting scheduled for Thursday, November 16.
3. Budget Workshops – public outreach working towards approving Budget for January - June 2018
4. Basin Boundary Modification Workshops - public education/outreach working towards Basin Boundary Modification submission to DWR in March 2018

## ADJOURNMENT

The Board will adjourn to the next **Regular Board Meeting** on Thursday, **November 16, 2017** or call of the Chair.

*Materials, which are non-exempt public records and are provided to the Board of Directors to be used in consideration of the above agenda items, including any documents provided subsequent to the publishing of this agenda, are available for inspection at UWCD's offices at 106 North 8<sup>th</sup> Street in Santa Paula during normal business hours.*

*The Americans with Disabilities Act provides that no qualified individual with a disability shall be excluded from participation in, or denied the benefits of, the District's services, programs or activities because of any disability. If you need special assistance to participate in this meeting, or if you require agenda materials in an alternative format, please contact the UWCD Office at (805) 525-4431 or the City of Fillmore at (805) 524-1500. Notification of at least 48 hours prior to the meeting will enable the District to make appropriate arrangements.*

Approved:                     *Kelly Long*                    

**Posted: (date) October 26, 2017 (time) 10:30 a.m. (attest) Kris Sofley**  
**At: United Water Conservation District Headquarters, 106 No. 8<sup>th</sup> St., Santa Paula, CA**

**Posted: (date) October 26, 2017 (time) 11:00 a.m. (attest) Kris Sofley**  
**At: Fillmore City Hall, 250 Central Avenue, Fillmore, CA**

**Posted: (date) October 26, 2017 (time) 11 a.m. (attest) Kris Sofley**  
**At: <https://www.facebook.com/FPBGSA/>**

**FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 7A**

**DATE:** October 30, 2017  
**TO:** Board of Directors  
**SUBJECT:** Update on RFP for Legal Services

**SUMMARY**

As a result of both a direct mailing on September 20, 2017, requesting proposals for legal services and an advertisement which ran in the September 26 edition of the Ventura County Star, those firms highlighted below have submitted proposals for legal services to the Fillmore and Piru Basins Groundwater Sustainability Agency in accordance with the guidelines and requirements of its Request for Proposals.

<b>Contact</b>	<b>Legal Firm</b>	<b>Office Headquarters</b>
John P. Dacey	Bergman Dacey Goldsmith	Los Angeles, CA 90024
Gary M. Kvistad	Brownstein Hyatt Farber Schreck	Santa Barbara, California 93101-2711
Jeffrey Caufield	Caufield & James LLP	Los Angeles, CA 90071
Walter E. Wendelstein	Cohen & Burge LLP	Westlake Village, CA 91361
Mark T. Barney	Ferguson Case Orr Paterson LLP	Ventura, California 93004
Joseph D. Hughes	Klein DeNatale Goldner	Bakersfield, CA 93309
Henry S. Barbosa	Kronick Moskowitz Tiedemann & Girard	Claremont, CA 91711
Thomas S. Bunn III	Lagerlof, Senecal, Gosney & Kruse, LLP	Pasadena, CA 91101-5123
Dan Raytis	McMurtrey Harsock and Worth	Bakersfield, CA 93301
Gregory J. Newmark	Meyers Nave	Los Angeles, California 90017
Allan T. Marks	Milbank Tweed Hadley & McCoy	Los Angeles, CA 90017
W. Keith Lemieux	Olivarez Madruga Lemieux & O'Neill	Westlake Village, CA 91362
Chip Wullbrandt	Price Postell & Parma	Santa Barbara CA 93101
Terence Boga	Richards Watson Gershon	Los Angeles, California 90071-3101
Mary C. Alden	Smiland Chester Alden	Pasadena, California 91101
Edward J Casey	Weston Benhoof Rochefort Rubalcava MacCuish	Los Angeles CA 90071
Alan F Doud	Young Wooldridge LLP	Bakersfield, Ca 93301-1919

Recd proposal

**RECOMMENDED ACTION**

Board to review the submitted proposals and select the law firms it chooses to interview at the November 16, 2017 FPB GSA Board of Directors meeting.

## **BACKGROUND**



At the September 18 Board Meeting, the Board reviewed a proposed Request for Proposal (RFP) for Legal Services and directed interim Executive Director to distribute the RFP to eligible law firms.

Interim Executive Director created a list of eligible law firms in the Los Angeles, Ventura, Santa Barbara and Bakersfield areas from both the DWR Attorney list and the ACWA Legal Committee list. The 13 law firms were sent copies of the RFP via regular mail on September 20, 2017. The interim Executive Director also ran an advertisement announcing the availability of the RFP in the Ventura County Star newspaper on September 26, 2017.

As a result of these actions, five legal firms submitted proposals for legal services by the October 23, 2017 deadline.

## **FISCAL IMPACT**

Fiscal impact is undetermined at this time and will depend on contract negotiations and established rates for services of the selected legal firm.



**FILLMORE AND PIRU BASINS  
GROUNDWATER  
SUSTAINABILITY AGENCY**

**Proposal for Legal Counsel**

**Klein · DeNatale · Goldner**

ATTORNEYS AT LAW

4550 California Ave., 2<sup>nd</sup> Floor

Bakersfield, CA 93309

Telephone: 661-395-1000

[jhughes@kleinlaw.com](mailto:jhughes@kleinlaw.com)

October 20, 2017

***VIA OVERNIGHT MAIL & E-MAIL***

Kris Sofley  
Fillmore and Piru Basins GSA  
c/o City of Fillmore  
250 Central Avenue  
Fillmore, CA 93015

Re: Fillmore and Piru Basins Groundwater Sustainability Agency  
Request for Qualifications: Legal Counsel

Dear Mr. Sofley:

Thank you for the opportunity to provide a proposal to Fillmore and Piru Basins Groundwater Sustainability Agency to serve as the Agency's legal counsel.

We have enclosed, for the Agency's consideration, Klein DeNatale Goldner's response to the Agency's Request for Proposal and Qualifications.

Klein DeNatale Goldner's representation of groundwater sustainability agencies and water districts in several basins has allowed the firm to become versed in the challenges posed by the Sustainable Groundwater Management Act. Our attorneys' position on public and private boards also makes us sensitive to the need to both identify legal issues and offer feasible policy options.

Implementation of SGMA requires technical expertise and sensitivity to local characteristics. Klein DeNatale Goldner's experience in all legal fields relevant to public agencies and Bakersfield location allow it to offer counsel on these requirements with top-quality attorneys at competitive rates. Although the basins managed by the Agency are not categorized as in "Critical Overdraft," Klein DeNatale Goldner understands the need build upon progress that has already been made and give groundwater users a sense of their "new reality" as soon as possible.

Kris Sofley  
October 20, 2017  
Page 2

Please feel free to contact me at your convenience if you have any questions or if we can provide any further information.

Very truly yours,



Joseph D. Hughes

JDH/RSP



# **QUALIFICATIONS AND EXPERIENCE**

## **FIRM DESCRIPTION**

Klein, DeNatale, Goldner, Cooper, Rosenlieb & Kimball, LLP (KDG), has provided quality legal services for clients throughout California for more than 60 years. The firm's current representations include clients involved in all facets of water policy, including municipal and industrial suppliers, agricultural suppliers, major farming operations, family farmers, waste water treatment plant operators, conservation districts, and land developers.

KDG employs 32 attorneys with depth of experience in the legal fields most relevant to groundwater sustainability agencies. KDG's partnership includes attorneys who individually have more than 15-years of experience in Water Law, Public Agency Law, Complex Transactions, Real Estate and Land Use, CEQA, Employment Law, Civil Litigation, and Appellate Practice.

Partners are supported by a team of associates and paralegals who help ensure efficient and cost-effective delegation of tasks. Associates are trained to stay current on issues related to the Public Records Act, Brown Act, and similar rules governing public agencies, so that common problems can be resolved before becoming taxing distractions. The firm's 50+ paralegals, legal secretaries, and support staff are trained to not only support the firm's attorneys, but also to be cordial resources to their counterparts at the firm's public agency clients.

With its main office in Bakersfield, and satellite offices in Fresno and San Diego, KDG is able to offer top quality experience at rates unmatched by firms headlined in larger cities.

# APPLICABLE EXPERIENCE

## GENERAL PUBLIC AGENCY EXPERIENCE

KDG serves as general counsel to numerous public agencies including: Belridge Water Storage District, Berrenda Mesa Water District, Chowchilla Water District, Dudley Ridge Water District, Golden Hills Community Services District, Kings River Conservation District, Kings River Water Association, Kings River Water Quality Coalition, Lost Hills Water District, North of River Sanitary District No. 1, Westside Water Quality Coalition, and West Kern Water District. KDG also serves as special counsel to other public agencies, such as the Kern County Local Agency Formation Commission.

As general counsel, KDG provides a full scope of public agency law services including attending board meetings, preparing contracts, resolutions and ordinances, representing the agency in court, managing outside counsel, and providing counsel on matters of law, policy, and good governance. In addition, KDG provides a wealth of experience on all issues related to water rights and use. KDG has represented public and private clients in matters related to the Sustainable Groundwater Management Act, groundwater adjudications, water entitlements, prescriptive rights, water quality issues, and State Water Resources Control Board petitions.

## SGMA EXPERIENCE

KDG's work with GSAs in several basins has given it the opportunity to become adept at the challenges and scope of SGMA. In addition to the agencies listed above, KDG serves as general counsel for West Kern Water District GSA, in the Kern Subbasin, East Kaweah GSA, in the Kaweah subbasin, and Cuyama Basin GSA, in the Cuyama Valley subbasin, and provides counsel to several other current clients that participate in GSAs, including GSAs in the Chowchilla and Kings subbasins.

KDG coordinated both West Kern and East Kaweah's election to become GSAs. In the case of West Kern, KDG successfully negotiated an agreement with the County of Kern to resolve overlap and governance issues. Kern County's original overlap resolution proposal raised issues related to the division of police powers, basin coordination, water transfers, and treatment of oil and gas interests. The firm's attorneys worked with County Counsel and the County's administrative staff to negotiate terms that would meet the County's governance concerns and not impede West Kern's development of a groundwater sustainability plan. In East Kaweah, KDG helped coordinate the resolution of GSA overlap between numerous public agencies with overlapping political boundaries.

## **DIRECTOR EXPERIENCE**

KDG's experience is not limited to providing procedural advice. KDG partners Joseph Hughes and Dennis Mullins also have years of experience as members of various public boards.

Joe currently serves on the board of the Kern County Museum Foundation, a public agency, and has previously served on the boards of the Kern County Law Library, and Kern County Employees' Retirement Association.

Dennis serves as a director for Wheeler Ridge-Maricopa Water Storage District and serves as the Wheeler Ridge representative to the Kern Groundwater Authority GSA. In his capacity as a Director of the Kern Groundwater Authority GSA, Dennis serves as President and on the GSA's executive committee and policy-level working group, which are charged with making proposals on how the basin ought to meet SGMA's requirements and establish a system for groundwater allocation accounting.

Having served in policy making roles, KDG's attorneys appreciate the need for counsel to both provide legal advice and contribute to the resolution of policy issues. In that capacity, KDG has worked with its current roster of GSAs and water districts to consider how to best approach SGMA's directives. KDG has provided trainings on SGMA and general principles of groundwater law, reviewed and analyzed proposals from academic sources on GSP best practices, and engaged with stakeholders on strategies to use SGMA's tools to build appropriate groundwater management structures.

## **PROJECT TEAM INFORMATION**

**JOSEPH D. HUGHES**- California Bar Number 169375

Joe was admitted to the California State Bar in 1993 after obtaining his law degree from Santa Clara University School of Law. He holds a Bachelor of Arts degree in both Political Science and Communication Studies from University of California, Santa Barbara. Joe was previously a partner in the firm Kuhs, Parker & Hughes and served as a Deputy County Counsel for Kern County. His practice concentrates in the areas of water and public agency law. Joe serves as General Counsel to Belridge Water Storage District, Lost Hills Water District, West Kern Water District, Berrenda Mesa Water District, North of River Sanitary District No. 1, Kings River Water Association, Kings River Conservation District, Dudley Ridge Water District, and Chowchilla Water District. Joe represents private companies in managing their water resources and serves as special counsel for the Kern County Local Agency Formation Commission. Between 2004 and 2012, Joe served by appointment of the Kern County Board of Supervisors as a Trustee of the \$3 billion Kern County Employees' Retirement Association pension fund and served as its Chairman in 2009. Joe currently serves by appointment of the Kern County Board of Supervisors as a Trustee of the Kern County Museum Foundation, which is entrusted with managing the Kern County Museum, and serves as its President. Joe has also served on the boards of the Kern County Bar Association, Kern County Law Library and Greater Bakersfield Legal Assistance. He maintains a Martindale AV rating, the highest level of distinction.

**DENNIS MULLINS**- California Bar Number 82471

Dennis graduated from the University of Michigan Law School, magna cum laude, and received a Bachelor of Arts degree in political science from the University of California at Davis. He has over 30 years of experience handling large, complex real estate transactions and development projects. Formerly the General Counsel of Tejon Ranch Company, Dennis focuses his practice in real estate, land use and planning, and environmental and water law. Dennis is a director of the Wheeler Ridge-Maricopa Water Storage District, one of the largest agricultural water districts in the state, and was formerly a director of the Kern Water Bank Authority and a director and president of the Tejon-Castac Water District. He currently serves as Wheeler Ridge-Maricopa Water Storage District's representative on the Kern Groundwater Authority. In August 2017, Dennis was elected President of the Kern Groundwater Authority. He previously served in several appointive positions in the Reagan and Bush Administrations.

***RAVIS. PATEL*** – California Bar Number 301258

Ravi S. Patel is an associate concentrating on the water and public agency law. He is a 2014 graduate of Duke University School of Law, cum laude, where he was the executive editor of the Duke Journal of Constitutional Law & Public Policy, and a 2010 graduate of University of California, Berkeley, where he received a Bachelor of Arts degree in history. Ravi serves as General Counsel for East Kaweah GSA, and as the firm’s primary point of contact for West Kern GSA, and Golden Hills Community Services District, and attends all regular meetings for each of those agencies. He has experience on a variety of issues related to SGMA, the Brown Act, the Public Records Act, the Political Reform Act, and Prop 218.

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## PROFESSIONAL REFERENCES

West Kern Water District  
Harry Starkey, General Manager  
P.O. Box 1105  
Taft, California 93628-1105  
Phone: 661.763-3151  
Email: [harry@wkwd.org](mailto:harry@wkwd.org)

Belridge Water Storage District  
Greg A. Hammett, General Manager  
21908 Seventh Standard Road  
McKittrick, California 93251  
Phone: 661.762-7316  
Email: [ghammett@belridgewsd.com](mailto:ghammett@belridgewsd.com)

Golden Hills Community Services District  
John Buckley, General Manager  
P.O. Box 637  
Tehachapi, CA 93561  
Phone: (661) 822-3064  
E-mail: [jbuckley@ghcsd.com](mailto:jbuckley@ghcsd.com)

Kings River Water Association  
Steve Haugen, Watermaster  
4888 East Jensen Avenue  
Fresno, CA 93725  
Phone: 559-266-0767  
E-mail: [shaugen@kingsriverwater.org](mailto:shaugen@kingsriverwater.org)

Chowchilla Water District  
Brandon Tomlinson, General Manager  
327 Chowchilla Blvd.  
Chowchilla, CA 93610  
Phone: (559) 665-3747  
E-mail: [btomlinson@cwdwater.com](mailto:btomlinson@cwdwater.com)

## **POTENTIAL CONFLICTS**

KDG has no known current conflicts that may restrict its ability to serve as counsel for the Fillmore and Pire Basins GSA.

As is common in water law, conflicts in individual projects are possible. KDG has collaborative relationships with many of the state's other public agency and water law specialized firms. In the exceptionally rare circumstance that KDG cannot handle an individual project, the firm will ensure that professional, competent conflict counsel is available.

## **FEE SCHEDULE ADMINISTRATIVE INFORMATION**

### **FEES**

Our fees are computed on an hourly basis in accordance with the standard rates assigned to the particular attorneys performing the work:

<b>Senior Attorney 10+ yrs</b>	<b>Junior Attorney 5-10 yrs.</b>	<b>Associate Attorney II 3 to 4 yrs.</b>	<b>Associate Attorney I Less than 3 yrs.</b>
\$270	\$240	\$210	\$190

Travel time is charged at the standard rates above. We do not charge fees for copies, computer usage, legal research time, or similar services.

Our rates are subject to change, and the applicable rates will be those in effect at the time the services are rendered. We will keep accurate records of the time we devote to your work, including conferences (both in person and over the telephone), negotiations, factual investigation, legal research and analysis, document preparation and revision, travel on your behalf, and other related matters.

### **INSURANCE**

<b>Category</b>	<b>Coverage</b>
Comprehensive General Liability	Policy currently in force
Automotive Liability	Policy currently in force
Workers Compensation	Policy currently in force
Errors and Omissions	Policy currently in force

### **PRIMARY CONTACT**

Klein DeNatale Goldner, LLP  
Attn: Joseph D. Hughes, Managing Partner  
4550 California Ave, 2nd Floor  
Bakersfield, CA 93309  
Email: [jhughes@kleinlaw.com](mailto:jhughes@kleinlaw.com)





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*Established 1908*

October 20, 2017

**VIA OVERNIGHT DELIVERY**

Fillmore and Piru Basins GSA  
c/o City of Fillmore  
250 Central Avenue  
Fillmore, CA 93015

**Re: Proposal for General Legal Counsel Services –  
Lagerlof, Senecal, Gosney & Kruse, LLP**

Dear Sir or Madam:

We are pleased to submit our proposal for General Legal Counsel Services in response to the Fillmore and Piru Basins GSA's Request for Proposals. As directed, this letter transmits an original and eight bound copies of our proposal. I also sent Kris Sofley an electronic copy today.

We greatly appreciate the opportunity to submit this proposal and look forward to working with the GSA. Please let me know if you have any questions regarding the proposal or need any further information.

Very truly yours,

Thomas S. Bunn III

Enclosures

**PROPOSAL OF  
LAGERLOF, SENECA, GOSNEY & KRUSE, LLP  
FOR GENERAL LEGAL COUNSEL SERVICES  
SUBMITTED TO  
FILLMORE AND PIRU BASINS  
GROUNDWATER SUSTAINABILITY AGENCY**

**TABLE OF CONTENTS**

TAB	ITEM	PAGE
1.	INTRODUCTION .....	1
2.	OUR FIRM .....	3
3.	OUR TEAM .....	5
4.	FEE SCHEDULE .....	12
5.	POTENTIAL CONFLICTS .....	13
6.	REFERENCES .....	14
7.	APPENDIX .....	12
	Appendix 1 – Public Agency Client List	15
	Appendix 2 – Perkins Coie Qualifications and Resumes	



*Lagerlof  
Senecal  
Gosney & Kruse*  
LLP



## **PROPOSAL TO PROVIDE LEGAL SERVICES**

Submitted to

**FILLMORE AND PIRU BASINS**

**GROUNDWATER SUSTAINABILITY AGENCY**

October 23, 2017

### **INTRODUCTION**

Lagerlof, Senecal, Gosney and Kruse is pleased to submit this proposal for General Counsel services. We understand that the Groundwater Sustainability Agency is seeking its own legal counsel in order to avoid conflicts of interest with the legal teams of the member directors' and the stakeholder directors' agencies, and to insure objectivity and fairness in representing sometimes competing interests. Competent legal counsel is especially necessary because SGMA is new and untested, and because the Groundwater Sustainability Plan will have wide-ranging effects in groundwater management, land use, the environment, and municipal and agricultural water use.

We believe we are uniquely suited for this position for the following reasons:

- Our Lead Counsel, Thomas S. Bunn III, serves as general and special counsel for numerous water districts, cities, joint powers authorities, other public agencies, and private clients. His experience includes all the services listed in the request for proposal under General Counsel, and almost all of the services listed under Special Counsel. Tom also has substantial groundwater experience, including SGMA matters.
- Although we are a small firm, we have depth and breadth of experience and expertise. All the members of our team have experience in general counsel services to public agencies, and each brings their own areas of expertise.
- SGMA requires an unprecedented level of stakeholder involvement—much more than the Brown Act opportunity for public comment or the CEQA requirement to consider



comments. The Fillmore and Piru Basins GSA has taken this one step further by appointing pumper and environmental members to its board of directors. We provide an unbiased objectivity that is fair to all points of view, and can help build consensus.

- SGMA is based on the principle that groundwater basins are best managed locally, and that one size does not fit all. It is also new. Nobody has ever written a groundwater sustainability plan before. Everyone in the state is going through a learning process, including the Department of Water Resources. In the words of one commentator, we are learning how to build an airplane while we are flying it. This calls for practical and innovative solutions, while at the same time complying with statewide requirements. Our firm is known for these practical and innovative solutions.
- In our experience, there is often a difference in style among attorneys for cities and counties, water districts, and private entities. We are familiar with these differences and how to harmonize them.
- One of our hallmarks is the level of service we provide to our clients. Our firm treats every project with a sense of urgency and regards every client as our only client. Those principles have been engrained through our long history.
- We pride ourselves not only on the quality of our work, but on our level of responsiveness. All communications, whether they are by phone, e-mail or text message, are returned within the same workday. In addition, we are available on a “24-7” basis if an urgent need arises. While turnaround time on specific projects depends on the complexity of the particular project, in all cases we will meet the GSA’s time frame for when it must have an answer or a particular end product.

We are excited at the opportunity to get in on the ground floor, and to assist the GSA as it creates a plan that will meet the needs of the different interests in the basin and provide a roadmap for years to come.

Very truly yours,

Thomas S. Bunn III



## **OUR FIRM**

### **GENERAL INFORMATION**

LAGERLOF, SENECAL, GOSNEY & KRUSE, LLP is a full-service law firm located in Pasadena, California. In practice since 1908, the firm has earned a solid reputation for innovation tempered with practicality, for thoroughness tempered with common sense, and for the integrity, commitment and value we bring to every engagement. Our clients see us as trusted advisors, respected for our business counsel as much as for our legal expertise.

The firm's practice is diverse, serving individuals, businesses, municipalities and nonprofits. Our expertise spans corporate law, labor, tax, litigation, estate planning, probate and trust, real estate, construction, bankruptcy, oil and gas, municipal law, and water and natural resources law. We engage in general civil, trial and appellate practice in all state and federal courts and administrative agencies.

### **THE MUNICIPAL AND WATER LAW PRACTICE**

Lagerlof, Senecal, Gosney & Kruse, LLP, has practiced municipal and water law for more than 80 years, and has earned an unparalleled reputation in this area. We have participated in many of southern California's most prominent water rights cases, and continue to serve as general counsel for numerous public agencies and mutual water companies, advising them on day-to-day operations, regulatory compliance, legislative issues and administrative matters.

Our clients include municipal, county and California water districts, irrigation districts, water conservation districts, cities, other public water agencies, joint powers authorities, watermasters, mutual water companies, and private water rights holders. A list of current and former public agency clients is attached as Appendix 1.



The firm's diverse experience includes the following:

- Brown Act and Public Records Act compliance
- Political Reform Act and conflict-of-interest matters
- Personnel and employment law matters
- Contract preparation and dispute resolution
- Water rights validations, adjudications and transfers
- Land and facilities acquisitions through condemnation proceedings and by negotiated purchase.
- CEQA (California Environmental Quality Act) processing and litigation
- Clean Water Act and NPDES permit issues
- All phases of public financing
- Rate setting and Proposition 26 and 218 compliance
- LAFCO (Local Agency Formation Commission) proceedings
- Public works construction

Over the past 80 years, our firm has assisted scores of private and public water agencies. We have conducted numerous water rights investigations, analyzed historical water development records, and rendered many opinions relating to the confirmation of water rights throughout California. We also have assisted our clients in water-related, environmental, public finance, legislative, rate-setting, contractual, employment and litigated matters.

We have served as special counsel for the Association of California Water Agencies (ACWA), and currently serve as general counsel to the California Rural Water Association, the California Association of Mutual Water Companies, and the Public Water Agencies Group.



## OUR TEAM

The resumes of the team members are below. Key team members include:

**Thomas S. Bunn III:** Tom will serve as Lead Counsel. Tom has represented public agencies for over 20 years, including joint powers authorities, county water districts, irrigation districts, and cities. His experience and expertise encompasses all the services listed in the request for proposal under General Counsel.

Tom has acquired special expertise in groundwater matters. He represents numerous groundwater rights holders, including not only public agencies but also private pumpers. He participated in the Mojave, Six Basins, and Antelope Valley adjudications. He currently represents clients in ongoing issues in the Chino, Upper Los Angeles River Area, and Rialto basins.

Tom is general counsel to the Hemet-San Jacinto Watermaster, which is similar to the Fillmore and Piru Basins GSA, in that its board of directors has representatives from cities, water districts, and private (agricultural and dairy) pumpers.

Tom represents clients in SGMA matters in the Indian Wells Valley, Kern, Upper Santa Clara River, and Borrego Springs basins.

**James D. Ciampa:** Jim also has many years' experience as general counsel to public agencies. He has special expertise in municipal finance, including Proposition 218; and in environmental law, including CEQA and Clean Water Act.

**Andrew D. Turner:** Andy is general counsel to public agencies as well as to many mutual water companies. In addition, he has expertise in labor and employment matters and personnel matters.

**Other attorneys:** The above attorneys will be assisted by Roland Trinh, Emma Fabeck, Dominic Nunneri, and Collin Spillman (currently awaiting bar results), as appropriate to provide timely and cost-effective service.

**Perkins Coie:** The only area listed under Special Counsel in which our firm does not have substantial experience and expertise is the California and federal Endangered Species Act. Should special counsel be needed in that area, we propose to associate the firm of Perkins Coie, led by Laura Godfrey Zagar. The firm's capabilities and resumes of their team are attached as Appendix 2.

### **BACKGROUND AND QUALIFICATIONS FOR RELEVANT ATTORNEYS**



## **Thomas S. Bunn III**



Tom Bunn has been an attorney with Lagerlof, Senecal, Gosney & Kruse, LLP, for more than 30 years. He practices business law and business litigation, with emphasis on water and water rights, public agencies, real estate, commercial transactions and bankruptcy.

In water matters, Mr. Bunn represents both public agencies and private clients, with special expertise in Proposition 218 and Proposition 26 compliance, groundwater, water rights and water transfers. Currently he is working in a number of groundwater basins toward the formation of groundwater sustainability agencies and groundwater sustainability plans under the Sustainable Groundwater Management Act of 2014. He has participated in the negotiation and implementation of groundwater management plans, and represents water producers in litigation, including groundwater basin adjudications, and before the State Water Resources Control Board. He represented Western Water Company in a groundbreaking water transfer, marking the first time that the Metropolitan Water District exchanged water with a private company for delivery within its service area.

Mr. Bunn is general counsel for Newhall County Water District, Crescenta Valley Water District, and the Hemet San Jacinto Watermaster. He represents Palmdale Water District in connection with the Antelope Valley groundwater adjudication and the formation and operation of its watermaster.

Mr. Bunn serves on the Groundwater Committee of the Association of California Water Agencies. He participated in drafting the Groundwater Management Act (AB 3030), which allows for local control and management of groundwater, and has been intimately involved in negotiations that resulted in the Sustainable Groundwater Management Act of 2014 and related follow up legislation.

Mr. Bunn's real estate practice embraces all types of clients and matters, including real estate purchase and sale transactions, leasing transactions, ground leasing and all types of real estate and construction disputes. He prepares and negotiates commercial agreements, financing, security agreements and contracts of all kinds. He also represents clients in matters of litigation, and has achieved significant victories in the Court of Appeal and the California Supreme Court, including a Proposition 13 case in which Ventura Port District and Ventura County were co-defendants.

## **James D. Ciampa**





James Ciampa, a managing partner with the firm, practices municipal, water, real estate, business, employment and environmental law. Mr. Ciampa currently represents many retail water purveyors and various public agencies throughout Southern California. Through his work with public sector clients, Mr. Ciampa has gained particular expertise in drafting and negotiation of legislation, with the California Environmental Quality Act (CEQA), in municipal finance and in rate setting, including compliance with Propositions 26 and 218. His experience includes providing advice to clients concerning short-term operational issues and long-term planning.

Mr. Ciampa serves as general counsel for Walnut Valley Water District, Pico Water District, Puente Basin Water Agency, San Gabriel Valley Municipal Water District, Public Water Agencies Group and numerous mutual water companies, and as assistant general counsel for numerous other public and private water suppliers. He serves as general counsel to the California Rural Water Association and California Association of Mutual Water Companies. He also has been general counsel for several real estate development and computer software consulting firms.

Mr. Ciampa also assists clients with various real estate matters, including purchases, sales and exchanges; development, entitlement and financing issues; easement and boundary matters; and representation of homeowners associations. He also has represented various business entities with respect to formation, financing, operational issues, stock and asset sales, labor and employment matters, litigation and dissolution.

Mr. Ciampa is active in civic affairs, currently serving as a committee chairman for the Pasadena Tournament of Roses Association. He has served on the Executive Committee of the Southern California Rugby Football Club, and is a founding coach of the Pasadena Pythons Youth Rugby Club. Mr. Ciampa is a member of the Pasadena, Los Angeles County and California Bar Associations.



## Andrew D. Turner



Andrew Turner, a partner with the firm since 1991, practices municipal, real estate, water, employment and business law, with an emphasis in civil litigation. He is well known for his expertise in advising business owners and operators on day-to-day matters including employment issues, contracts and regulatory compliance.

Andy has extensive experience representing retail urban water purveyors of all types in Southern California, ranging from providing immediate response to the many issues they encounter daily, to handling complex litigation and public works construction matters.

His accomplishments include representation as Amicus Curiae in a major dispute between two public agencies over the cost of relocating underground pipelines, which led the Court of Appeals to a favorable resolution for California water purveyors. Recognized statewide as an expert in matters involving mutual water companies, Andy has been deeply involved in recent legislation affecting these organizations. He and partner Jim Ciampa have headed up the lobbying effort on a number of bills that could have adversely impacted how mutual water companies operate. They also were instrumental in founding the California Association of Mutual Water Companies, an organization created to bring together the diverse interests of mutual water companies throughout the State, and to advocate and educate on their behalf.

A proud Banana Slug, Andy received his B.A. in Economics from the University of California at Santa Cruz, and his J.D. from the USC Law Center, where he was a member of the Major Tax Planning Journal and the Computer/Law Journal. He is an active leader in Boy Scouts and a member of the California State Bar, and the Pasadena and Los Angeles County Bar Associations.



## Roland Trinh



Roland Trinh, a partner at Lagerlof, Senecal, Gosney & Kruse, is involved in a majority of the firm's litigation and chairs its intellectual property practice, focused primarily on trademark prosecution and maintenance. He also practices in the public agency and water law area, and serves as general counsel to La Puente Valley County Water District, as well as to corporate clients, and assists other public agency water clients.

Roland received his B.A. in history from the University of California at Berkeley in 2001. A native of Pasadena, he worked for Yahoo! (and later Overture.com) before earning his J.D. from UCLA School of Law in 2005. Roland was a clerk at the Office of General Counsel for the California State University before serving as a summer associate at Lagerlof, Senecal, Gosney & Kruse, LLP in the summer of 2004. He joined the firm as an associate in 2005 and was named a partner in 2014. He is conversant in Cantonese.

Roland serves as a member of the Board of Directors of the Pasadena Police Activities League (PAL), a youth crime prevention program that provides an array of activities designed to enhance the educational, athletic and artistic experience of Pasadena's youth, while fostering positive attitudes toward authority figures and law enforcement in a safe and stable after-school environment. He is a fan of all things Cal-Berkeley, an avid sports enthusiast, and enjoys traveling, camping, snowboarding, motorcycles, music, contemporary art and searching for food nirvana.



## Emma Jane Fabeck



Emma Jane Fabeck is an associate at Lagerlof, Senecal, Gosney & Kruse, LLP. Her practice focuses on real estate transactions, estate planning, trust administration and probate. Emma Jane is particularly adept at assisting clients with complex real estate acquisition and disposition transactions, commercial leasing, financing, entity formation for asset protection, change-in-ownership issues, structuring estate plans, title issues and tax related issues. She frequently conducts extensive title examinations, and has issued title opinions regarding riparian water rights, restrictive covenants, easements and title defects. Prior to joining the firm, Emma Jane developed a strong personal and professional background in commercial real estate. This background gives her a unique insight into the needs and concerns of investment property owners.

Emma Jane received her Bachelor of Arts Degree from the University of Southern California in 2009, before earning her Juris Doctorate Degree from Loyola Law School in 2014. While in law school Emma Jane participated in the Center for Conflict Resolution's Collaborative Mediation Clinic and the Bankruptcy Practicum at the Legal Aid Foundation of Los Angeles. She was admitted to the State Bar in 2014.



## Dominic J. Nunneri



Dominic Nunneri joined the firm in 2014, and has performed litigation, transactional, and regulatory compliance work for public agencies, as well as private companies and families. He has counseled water purveyors concerning compliance with new laws, regulations, and permits. Mr. Nunneri has assisted numerous public agencies and mutual water companies who must comply with the terms of the statewide permit for potable water system discharges issued under the National Pollutant Discharge Elimination System.

He has assisted on various litigated matters and recently helped draft appellate briefs that gained a successful result for a public agency client in a Brown Act dispute. He also negotiated with a large municipality for the renewal of an investor-owned utility client's franchise agreement.

Mr. Nunneri graduated from UCLA, where he earned his B.A. in Political Science. He subsequently earned his J.D. from the University of Southern California, Gould School of Law. While at USC, he served as a staff member of the Southern California Review of Law and Social Justice, and also was a member of the Mediation Clinic, where he mediated over 40 small claims cases.

Mr. Nunneri is a board member of the Italian American Lawyers Association. He is also a member of the Pasadena Bar Association. He enjoys hiking, traveling, basketball and baseball.



## **FEE SCHEDULE**

### **HOURLY RATE SCHEDULE FOR RELEVANT ATTORNEYS**

<b><u>ATTORNEY</u></b>	<b><u>HOURLY RATE</u></b>
Thomas S. Bunn III	\$360
James D. Ciampa	\$360
Andrew D. Turner	\$360
Roland Trinh	\$275
Emma Jane Fabeck	\$250
Dominic J. Nunneri	\$250
Collin Y. Spillman	\$150
(upon bar admission)	\$200



## POTENTIAL CONFLICTS

We do not have any actual or potential conflicts of interest with any Member or Stakeholder entity.

Tom Bunn is general counsel for Newhall County Water District, which is a member of the Santa Clarita Valley Groundwater Sustainability Agency. On January 1, 2018, Newhall County Water District and Castaic Lake Water Agency will merge into the newly created Santa Clarita Valley Water Agency (SCV Water). It is likely that the firm will continue to represent SCV Water after the merger.

The Santa Clarita Valley GSA does not have its own attorney. In his capacity as general counsel for Newhall County Water District, Tom has provided advice to the GSA and may continue to do so.

It is possible that quantity or quality issues will arise between the two GSAs. We believe this is unlikely, however. The upstream and downstream basins have worked well with each other in the past. We understand that there is a substantial issue relating to chlorides in the Santa Clara River, but that issue mainly concerns the Sanitation District.

We anticipate a written disclosure and waiver of the potential conflict by both agencies. If an issue were to arise between the two GSAs, our firm would not represent or provide advice to the Santa Clarita Valley GSA on that issue. Any further actions would require further evaluation, depending on the particular circumstances at the time. It is possible that our firm would have to withdraw from representing either client in connection with the issue.



## REFERENCES

### 1. Palmdale Water District

**Contact: Dennis LaMoreaux, General Manager**  
**(661) 947-4111**      [dlamoreaux@palmdalewater.org](mailto:dmoreaux@palmdalewater.org)

Tom Bunn represented Palmdale Water District in the Antelope Valley groundwater adjudication for 16 years. More significantly, over the past two years he has provided substantial assistance to the Watermaster (which does not yet have its own attorney) in its start-up activities. Tom has gained the trust of both the public water suppliers and the overlying landowners, and as such has been able to assist both sides in reaching a consensus that is in the best interest of the basin. He was invited to submit a proposal to represent the Watermaster, but determined he could not represent the Watermaster and the District at the same time.

### 2. Hemet San Jacinto Watermaster

**Contact: Behrooz Mortazavi, Watermaster Advisor**  
**(714) 794-5520**      [bmortazavi@msn.com](mailto:bmortazavi@msn.com)

The Watermaster was appointed in the adjudication of the San Jacinto Basin. Similarly to the Fillmore and Piru Basins GSA, the Watermaster has a representative board of directors, consisting of representatives from Eastern Municipal Water District, Lake Hemet Municipal Water District, the cities of Hemet and San Jacinto, and the private pumpers. Tom Bunn is general counsel to the Watermaster, and has provided unbiased, objective and practical advice.

### 3. Newhall County Water District

**Contact: Steve Cole, General Manager**  
**(661) 259-3610**      [scole@ncwd.org](mailto:scole@ncwd.org)

Tom Bunn is general counsel to the District and provides similar services to those specified in the request for proposal. In addition, Tom was instrumental in resolving a dispute that arose when Castaic Lake Water Agency acquired the stock of Valencia Water Company, one of its retailers. Newhall County Water District believed that Castaic violated a promise it had made not to provide retail service outside a defined area. Newhall believed that Castaic's next target was to take over Newhall itself. Tom facilitated a resolution under which the two agencies agreed to form a new agency—a merger of equals rather than a takeover. That way, Newhall can bring its own culture to the new agency. The governor signed legislation implementing this settlement on October 15, 2017.





## **APPENDIX 1**

### **PUBLIC AGENCY CLIENT LIST**

Following is a listing of clients for whom the firm has provided or is providing public agency and water law services:

(Note that General Counsel services typically include attendance at Board meetings; review and input on Board meeting agendas and minutes; advice and consultation on any issues that arise for the agency, including preparation, review and revision of contracts; and general assistance with matters relating to the agency.)

#### **General Counsel (Current)**

Central Basin Water Association – Tony Zampello, Executive Secretary, (626) 815-1300  
Crescenta Valley Water District – Tom Love, General Manager, (818) 248-3925  
Hemet-San Jacinto Watermaster – Behrooz Mortazavi, Watermaster Advisor, (714) 794-5520  
Kinneloa Irrigation District – Mel Matthews, General Manager, (626) 797-6295  
La Puente Valley County Water District – Greg Galindo, General Manager, (626) 330-2126  
Newhall County Water District – Steve Cole, General Manager, (661) 259-3610  
Orchard Dale Water District – Ed Castaneda, General Manager, (562) 941-0114  
Pico Water District – Mark Grajeda, General Manager, (562) 692-3756  
Pomona-Walnut-Rowland Joint Waterline Commission – Erik Hitchman, Administrative Officer, (909) 595-1268  
Public Water Agencies Group – Tom Coleman, Chair, (562) 697-1726  
Puente Basin Water Agency – Michael Holmes, Administrative Officer, (909) 595-1268  
San Gabriel Valley Municipal Water District– Darin Kasamoto, General Manager, (626) 969-7911  
Ventura Port District –Oscar Pena, General Manager, (805) 642-8538  
Walnut Valley Water District – Michael Holmes, General Manager, (909) 595-1268  
West Valley County Water District – Mark Crosby, General Manager, (661) 724-1860

#### **General Counsel (Former)** *[contact names omitted where staff changes have occurred since our prior representation]*

Bighorn Desert View Water Agency – (760) 364-2315  
Castaic Lake Water Agency – (661) 297-1600  
Hidden Valley Municipal Water District – (805) 498-8139  
Palmdale Water District – Dennis LaMoreaux, General Manager, (661) 947-4111  
Palm Ranch Irrigation District – (661) 943-2469



Quartz Hill Water District – Chad Reed, General Manager, (661) 943-3170  
Sativa-Los Angeles County Water District – Thomas Martin, General Manager, (310) 631-8176  
United Water Conservation District – (805) 525-4431  
Water Replenishment District of Southern California – Robb Whitaker, General Manager,  
(562) 424-6688

### **Special Counsel (Current)**

Cucamonga Valley Water District – Martin Zvirbulis, General Manager, (909) 987-2591; litigation concerning Rialto Groundwater Basin; former consulting on water rights issues  
City of California City – Christian Bettenhausen, City Attorney, (714) 446-1400; assistance with water rights issues  
City of Grand Terrace – Richard Adams, City Attorney, (714) 446-1400; assistance in rate and facility dispute with neighboring city  
City of Lakewood – (562) 866-9771; representation in Central Basin Third Amended Judgment negotiations and related court proceedings  
City of Long Beach – Long Beach Water Department, (562) 570-2300; representation in Central Basin Third Amended Judgment negotiations and related court proceedings  
City of Norwalk – Adriana Figueroa, Administrative Services Manager, (562) 929-5511; assistance with real property leasing  
City of Pasadena – Pasadena Water and Power; Lisa Hosey, Assistant City Attorney, (626) 744-4141; assistance with water rights issue and Clean Water Act compliance  
City of Pomona – Darron Poulsen, Water and Wastewater Operations Director, (909) 620-2251; representation in Six Basins and Chino Basin Adjudications and other water-related issues  
Palmdale Water District – Dennis LaMoreaux, General Manager, (661) 947-4111; representation in the Antelope Valley Adjudication.

### **Special Counsel (Former – services rendered within last 10 years)**

Camrosa Water District – current contact unknown; (805) 482-4677; Clean Water Act/Section 404 permit  
City of La Habra – Jim Sadro, City Manager, (562) 383-4000; assistance with LAFCO issues  
East Orange County Water District – contact has passed away; (714) 538-5815; district reorganization/LAFCO issue  
La Habra Heights County Water District – Michael Gualtieri, General Manager, (562) 697-6769; assistance with Regional Water Quality Control Board NPDES permit issue  
Olivenhain Municipal Water District - (760) 753-6466; preparation of legal opinion regarding authority to bottle and sell district water  
Rowland Water District – Tom Coleman, General Manager, (562) 697-1726; analysis and opinion concerning Main San Gabriel Basin Judgment



San Bernardino Valley Water Conservation District – David Cosgrove, General Counsel, (714) 662-4602; assistance with challenge to proposed consolidation through San Bernardino County LAFCO and assistance with employment-related matter

Ventura County Waterworks District No. 1 – Reddy Pakala, Ventura County Director of Water and Sanitation (805) 654-2320; assistance with water rights issues

City of Vernon – Scott Rigg, Public Works and Water Superintendent, (323) 583-8811, ext. 279; assistance with water rights transaction

Western Municipal Water District – John Rossi, General Manager, (951) 571-7100; assistance with Public Records Act issues

**Special Counsel (Former – representation ended more than 10 years ago)** *[no contact information provided due to length of time since representation ended]*

City of Beverly Hills

City of Brea

Central Basin Municipal Water District

City of Chino

City of Colton

City of Compton

City of Fillmore

Fox Canyon Groundwater Management Agency

City of Hermosa Beach

City of Inglewood

Littlerock Creek Irrigation District

Meiners Oaks County Water District

Morongo Community Services District

City of Monrovia

City of Moorpark

City of Ojai

Palo Verde Irrigation District

City of Redlands

City of Redondo Beach

City of Rialto

City of Simi Valley

City of San Bernardino

Trabuco Canyon Water District

City of Upland

Vallecitos County Water District

Vista Irrigation District

West San Bernardino County Water District

GENE R. McMURTREY \*  
ROBERT W. HARTSOCK  
JAMES A. WORTH  
ISAAC L. ST. LAWRENCE  
DANIEL N. RAYTIS

\* DENOTES OF COUNSEL

LAW OFFICES  
**McMURTREY, HARTSOCK & WORTH**  
A PROFESSIONAL CORPORATION  
2001 22ND STREET, SUITE 100  
BAKERSFIELD, CALIFORNIA 93301

AREA CODE 661  
TELEPHONE 322-4417  
FAX 322-8123

October 20, 2017

**VIA Electronic Mail & Federal Express**

Kris Sofley, Interim Executive Director  
Fillmore and Piru Basins Groundwater Sustainability Agency  
c/o City of Fillmore  
250 Central Avenue  
Fillmore, CA 93015  
Email: [kriiss@unitedwater.org](mailto:kriiss@unitedwater.org)

Re: Proposal for Groundwater Sustainability Agency Legal Services

Dear Ms. Sofley:

McMurtrey, Hartsock & Worth (MHW) is pleased to provide the Fillmore and Piru Basins Groundwater Sustainability Agency (Agency) with the enclosed proposal for legal services. We believe you will find our office uniquely qualified to provide premium legal counsel on the matters of importance to the Agency, which is particularly critical in light of the Sustainable Groundwater Management Act's (SGMA) profound impact on California's groundwater landscape.

MHW is a five-attorney law firm that specializes in representing public agencies, primarily water districts and other special districts who are responsible for water supply and water management activities. Our office has been engaged in the practice of public agency and water law since 1969. Collectively, our attorneys have over 125 years of experience in those fields. Currently, we are actively engaged in counseling several Groundwater Sustainability Agencies (GSA) and their member agencies through the requirements of SGMA. As General Counsel to GSA's and GSA member agencies, we understand the specific issues facing the Agency and are prepared to provide the highest level of legal advice on matters that have arisen in the wake of SGMA.

You will find within our proposal that we have chosen Dan Raytis as Lead Counsel for services to the Agency. Dan has extensive experience in public agency and water law. He leads the firm's litigation practice and recently prevailed in complex litigation involving the world's largest groundwater storage and recovery project. Dan also acts as General Counsel to the Rosedale-Rio Bravo Water Storage District, which is heavily involved in developing and implementing a Groundwater Sustainability Plan covering vast acreage and multiple uses in the Kern County valley floor area. We are confident that Dan's experience and expertise is particularly well-suited to assist the Agency with the various legal issues it will face.

Kris Sofley, Interim Executive Director  
Fillmore and Piru Basins Groundwater Sustainability Agency  
October 20, 2017  
Page 2

We appreciate your consideration of our proposal. If you have any questions about our proposal, please do not hesitate to contact our office or Dan personally. We look forward to hearing from you and hope that we will have the opportunity to put our knowledge and experience to work for the Agency. Thank you.

Respectfully Submitted,

McMURTREY, HARTSOCK & WORTH

By:   
Daniel N. Raytis, Esq.

DNR:gg

Enclosure

**McMURTREY, HARTSOCK & WORTH**  
**PROPOSAL FOR LEGAL SERVICES FOR THE FILLMORE & PIRU BASINS GSA**  
**October 20, 2017**

**Respondent's Qualifications:**

McMurtrey, Hartsock & Worth's (MHW) office is located in Bakersfield, California. We have been engaged in the practice of law since January 1969 and, during that time, have specialized in the representation of special districts and other quasi-public agencies (such as mutual water companies). Our firm is comprised of five attorneys. Our office is located at 2001 22<sup>nd</sup> Street, Suite 100, Bakersfield, CA 93301. The current attorneys working with the firm are as follows:

<u>Name</u>	<u>Admitted</u>	<u>Experience</u>	<u>Bar Number</u>
Gene R. McMurtrey*	January 1969	48 years	042986
Robert W. Hartsock	December 1983	33 years	110631
James A. Worth	June 1990	27 years	147207
Daniel N. Raytis	January 2002	15 years	218374
Isaac L. St. Lawrence	January 2004	13 years	229789

*\*Of counsel*

MHW and its attorneys have served as General Counsel for various public agencies for nearly a half-century. We have advised clients extensively on the Ralph M. Brown Act, California Public Records Act, the Public Contracts Code, California Environmental Quality Act (CEQA), conflict of interest issues, water rights and all other public agency law matters. With the adoption of SGMA, we have been intimately involved in the formation and representation of various GSA's and the development of GSP's in Kern County.

Currently, MHW serves as General Counsel to the following representative clients:

- KERN DELTA WATER DISTRICT, which provides agricultural water service to approximately 125,000 acres in Kern County relying on Kern River water rights, State Water Project water, Friant-Kern surplus water and groundwater – we have been General Counsel to Kern Delta for over 45 years;
- BUENA VISTA WATER STORAGE DISTRICT, which provides agricultural water service to approximately 50,000 acres in Kern County relying on Kern River Water rights, State Water Project water, Friant-Kern surplus water and groundwater – we have been General Counsel to Buena Vista for over 35 years;
- INDIAN WELLS VALLEY WATER DISTRICT, which provides municipal and industrial water service to approximately 12,000 connections and bulk water services via separate water-hauling stations in the Ridgecrest area relying on groundwater – we have been General Counsel to Indian Wells for over 35 years;

- OILDALE MUTUAL WATER COMPANY, which provides municipal and industrial water service to approximately 8,000 connections in the Bakersfield area relying on treated State Water Project water and groundwater – we have been General Counsel to Oildale Mutual for over 30 years;
- MIL POTRERO MUTUAL WATER COMPANY, which provides municipal and industrial water service to approximately 2,294 connections in the Pine Mountain Club area relying on groundwater – we have been General Counsel to Mil Potrero for over 20 years;
- QUAIL VALLEY WATER DISTRICT, which provides municipal and industrial water service to approximately 200 connections in the Tehachapi area relying on groundwater – we have been General Counsel to Quail Valley for over 20 years;
- CAWELO WATER DISTRICT, which provides agricultural water service to approximately 50,000 acres in Kern County relying on State Water Project water, Kern River water and groundwater – we have been General Counsel to Cawelo for over 20 years;
- HENRY MILLER WATER DISTRICT, which provides agricultural water service to approximately 26,000 acres in Kern County relying on groundwater, State Water Project water and Kern River water – we have been General Counsel to Henry Miller for over 20 years;
- OLCESE WATER DISTRICT, which provides agricultural water service to approximately 1,200 acres in Kern County relying on groundwater and Kern River water and also involved in hydroelectric production – we have been General Counsel to Olcese for over 15 years;
- GOLDEN EMPIRE TRANSIT DISTRICT, which owns and operates the Bakersfield Municipal Transit system – we have been General Counsel to GET for over 40 years;
- ROSEDALE-RIO BRAVO WATER STORAGE DISTRICT, which provides groundwater replenishment and management services to approximately 45,000 acres in Kern County relying on Kern River Water rights, State Water Project water and groundwater – we have been both special counsel and General Counsel to Rosedale for over 10 years;

- EAST NILES COMMUNITY SERVICES DISTRICT, which provides municipal and industrial water service, and sewer collection service, to approximately 7,500 connections in the Bakersfield area relying on State Water Project water and groundwater – we have been General Counsel to East Niles for over 10 years;
- BORON COMMUNITY SERVICES DISTRICT, which provides municipal and industrial water service to approximately 631 connections in the Boron area relying on groundwater – we have been General Counsel to Boron for over 10 years;
- MOJAVE PUBLIC UTILITY DISTRICT, which provides municipal and industrial water service, and sewer service, to approximately 1,316 connections in the Mojave area relying on State Water Project water and groundwater – we have been General Counsel to Mojave for over 10 years.

In addition to the foregoing, MHW has performed services from time to time for other similar clients, such as Semitropic Water Storage District, Rag Gulch Water District, Rag Gulch Mutual Water Company, and several other mutual water companies, businesses, homeowners' associations, property owners' associations, and the like.

MHW also acts as General Counsel to the following GSA's or provides legal services to one or more of their participating public agencies:

- KERN GROUNDWATER AUTHORITY GSA
- KERN RIVER GSA
- CAWELO GSA
- OLCESE GSA
- INDIAN WELLS VALLEY GSA
- HENRY MILLER WATER DISTRICT GSA

Our representation of the above entities and organizations has led to our involvement in a broad range of public agency legal matters and affords us superior knowledge of local, regional and statewide projects and politics, and a good working relationship with individuals responsible for the implementation or governance of the same. In addition, we are well versed in the special legal requirements applicable to public agencies and their directors and officers. MHW is a firm principally devoted to public agency representation, including all of those matters referenced within the Agency's Request for Qualifications.



In addition to the above “routine” public agency-related matters, MHW has acted as legal counsel with respect to implementation of innumerable public projects, including groundwater banking and recovery projects, water transfers and exchanges, and the like. MHW has successfully steered its clients through all phases of project implementation, including CEQA compliance, financing requirements (bonds, COPs, short-term borrowings), land acquisition (purchase, lease, eminent domain), bidding, negotiation and award of contracts, contract enforcement, and related issues such as prevailing wages and liquidated damages. MHW has also successfully litigated matters related to water rights, eminent domain, inverse condemnation, CEQA, public agency fees and charges (under Proposition 218), and capital facility fees, at all levels of the judicial system, including the California Supreme Court.

**Proposed Respondent Team:**

Dan Raytis is proposed to be the lead counsel with primary responsibility for providing legal services to the Agency. As is customary within MHW, Dan will call upon the other attorneys in the office for assistance with projects, depending upon the particular expertise that may be called for on a given project. Dan’s experience and qualifications are as follows:

- Dan Raytis

Dan has extensive experience as General Counsel to both MHW’s public agency clients and others. Dan’s practice includes a wide breadth of subjects, including water law, complex litigation, personnel, real property, contract, election, conflict of interest, CEQA, Ralph M. Brown Act, prevailing wage, public bidding and construction, among others.

Dan first joined MHW in 2003, and has been with the firm continuously since, with the exception of four years where he served as the Assistant General Counsel of the Kern County Water Agency where he gained invaluable experience in the state and local water community.

Dan has led all areas of litigation, including strategy development, fact investigation, taking and defending depositions, discovery and motion practice, and preparing and developing expert witnesses. Most recently, Dan was the lead attorney in complex environmental litigation involving several opposing parties and an administrative record in excess of 250,000 pages. In that action Dan’s clients challenged the certification by the State of California of an Environmental Impact Report for the largest water banking project in the world. After several years of litigation, Dan’s clients obtained a favorable judgment in all respects and recovered costs and attorneys’ fees in an amount in excess of \$500,000. The outcome of the case was discussed by several news outlets, including the *Bakersfield Californian*, *Los Angeles Times* and the *Associated Press*.

Before that, Dan served as the primary attorney in complex contract litigation on behalf of a mutual water company, which resulted in a negotiated settlement in favor of the firm's client. As a young associate, Dan was given the responsibility of acting as the lead attorney on behalf of the Bakersfield SPCA in contract litigation filed by the City of Bakersfield, which was resolved through negotiated settlement in an amount significantly less than the City's demand.

Dan's early work in Bakersfield set precedent in California water law. With only a few years of experience, Dan drafted legal briefs (including an 87-page appeal brief) in a historical Kern River water law trial and appeal that established the appropriate period for measuring forfeiture of surface water rights in California. (*North Kern Water Storage District v. Kern Delta Water District*, 147 Cal.App.4th 555 (2007)). Dan's efforts in the *North Kern* litigation helped to preserve his client's continued right to tens of thousands of acre feet of water per year on average.

Dan began his career in San Francisco, working at one of this country's preeminent law firms (Shook, Hardy & Bacon) representing international tobacco and automotive companies, including Phillip Morris and Ford Motor Company. At Shook, Hardy & Bacon, Dan served on trial teams with some of the most celebrated litigators in the country.

Dan received his Juris Doctor from the University of San Francisco School of Law in 2001. While at U.S.F., Dan was awarded the Best Oral Argument award in the Moot Court Competition, the American Jurisprudence Award for Alternative Dispute Resolution, and was a staff member on the University of San Francisco Law Review. Dan authored *Indest v. Freeman Decorating, Inc.: Dealing with Vicarious Liability for Sexual Harassment by a Supervisor*, which was published in the U.S.F. Law Review in the Spring of 2001.

MHW's other attorneys' that may assist Dan with the Agency's representation are as follows:

- Gene McMurtrey

Gene is the founding member of MHW. Gene's primary area of practice from 1969 to the present has been serving as general counsel to a variety of public agency clients, mostly water districts. Gene is a recognized expert in public agency law, water law and related subjects.

- Robert Hartsock

Robert joined MHW in 1986. Since that time, Robert has been involved in numerous litigation matters for both public and private entities, including matters related to proxy disputes, collections, floods and related damages, CEQA, and water rates. His litigation experience also includes work before the Superior Court, the Fifth Appellate Division, and prevailing before the California Supreme Court.

Mr. Hartsock principally focuses his practice on representing public agency clients as General Counsel, which includes legal counsel relating to the Ralph M. Brown Act, Meyers-Milias-Brown Act, conflicts of interest, prevailing wages, public contracts, employment, real property matters, CEQA, SGMA, and various areas of transactional work.

- James (“Jim”) Worth

Jim came to MHW in 1992. Jim presently serves as General Counsel to multiple public agencies, including agricultural and municipal water districts. He provides legal advice on all aspects of public agency representation. He has extensive experience in the areas of water rights, real property matters, environmental issues, CEQA, SGMA, eminent domain, transactional matters and Brown Act compliance. Jim’s litigation experience includes prosecuting and defending CEQA matters, eminent domain actions, and insurance coverage and water rights disputes. He has successfully represented both public and private clients on matters before the State Water Resources Control Board. More recently, Jim has been providing legal advice on SGMA, including serving as general counsel to multiple GSA’s.

- Isaac St. Lawrence

Isaac’s practice is concentrated in the areas of agricultural and water law, real property and public agency representation. Part of MHW since May of 2006, Isaac has counseled public entities and private clients with respect to various legal matters including, but not limited to, personnel/HR, real property, contracts, CEQA, eminent domain/inverse condemnation proceedings, and water law issues. Isaac has participated in all aspects of litigation, including serving as lead counsel in several CEQA litigation matters and real property disputes. He is designated to be the primary attorney responsible for handling employment law matters, including litigation, transactional work, and presentation of required trainings. Isaac has served as General Counsel to GSA’s and continues to guide clients through SGMA.

**Fee Schedule:**

Our current fee schedule for legal services is as follows:

	<b><u>Years of Experience General</u></b>	<b><u>Years of Experience Public Agency Law</u></b>	<b><u>Hourly Rate</u></b>
Gene R. McMurtrey:	48 years		\$280/hr
Attorneys:	15 or more	5 or more	\$256/hr
	10 to 15	5 or more	\$244/hr
	5 to 10	Fewer than 5	\$224/hr
	0 to 5		\$204/hr
Law Clerks:			\$144/hr
Paralegals:	10 or More	5 or More	\$110/hr
	Fewer than 10	Fewer than 5	\$100/hr

**Costs and Expenses:** MHW clients are responsible for postage in excess of \$25.00 per item, parking fees, travel expenses (such as airfare at coach rates, lodging, meals, and ground transportation if required when travelling on behalf of a client), charges for outside assisted legal research, investigation expenses, and consultant fees. MHW does not charge additional costs for online legal research services (Lexis/Nexis and Westlaw), legal assistant time, copies, telephone charges, or mileage/fuel for required travel.

**Conflicts:**

MHW does not anticipate any conflicts of interest that would prevent us from representing the Agency or require that we obtain conflict waivers.

**References:**

Please feel free to contact any one or more of the following references:

Rosedale-Rio Bravo Water Storage District  
849 Allen Road  
Bakersfield, CA 93314  
Phone: (661) 589-6045  
General Manager: Eric Averett

Kern Delta Water District  
501 Taft Highway  
Bakersfield, CA 93307  
Phone: (661) 834-4656  
General Manager: L. Mark Mulkay

Oildale Mutual Water Company  
2836 McCray Street  
Bakersfield, CA 93308  
Phone: (661) 399-5516  
General Manager: Doug Nunneley

October 20, 2017

***Via Overnight Delivery***

Fillmore and Piru Basins GSA  
c/o City of Fillmore  
250 Central Avenue  
Fillmore, CA 93015

**Re: Response to Request for Proposal and Qualifications for Groundwater Sustainability Agency Legal Services**

On behalf of the law firm of Olivarez Madruga Lemieux O'Neill, LLP ("OMLO"), we wish to express our sincere gratitude for the opportunity to submit the enclosed response to the Request for Proposal and Qualifications for Groundwater Sustainability Agency Legal Services submitted by the Fillmore and Piru Basins Groundwater Sustainability Agency ("Agency"). As you will see from the enclosed materials, as a law firm that specializes in representing water districts with offices located in Ventura County, we are uniquely well-situated to represent your Agency.

OMLO was formed earlier this year as a strategic merger between the law offices of Lemieux & O'Neill and the law offices of Olivarez & Madruga. Lemieux & O'Neill has represented water districts in Southern California for the past 40 years. We currently represent more water agency members of the Metropolitan Water District than any other law firm. Our clients include some of the largest regional water purveyors, such as the Eastern Municipal Water District, all the way to small, local, water suppliers.

With the passage of the Sustainable Groundwater Management Act ("SGMA"), we have been retained to represent several groundwater sustainability agencies, including the Indian Wells Valley Groundwater Sustainability Authority, the Bedford Coldwater Groundwater Sustainability Authority and the Bear Valley Basin Groundwater Sustainability Agency. As with your GSA, each one of these agencies was formed as a Joint Powers Authority between two or more public agencies. In addition, to our GSA clients, we also represent various other JPAs including the Las Virgenes/Triunfo JPA, which was formed for the purpose of operating a sewer system in Western Los Angeles County, and Eastern Ventura County.

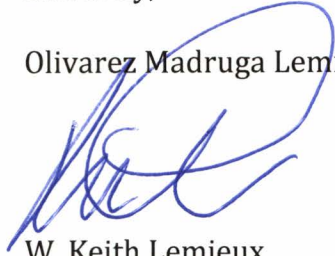
Based on our experience representing water districts, JPAs, and GSAs, we are confident that we have precisely the experience needed to competently provide service to your GSA. We propose, as lead counsel, Mr. Keith Lemieux, who currently serves as general counsel for Las Virgenes Municipal Water District, Valley County Water District, and others. Mr. Lemieux has more than 20 years of experience providing legal service to water supplier clients. Mr.

Lemieux will be assisted by Mr. Steven O'Neill, who is general counsel to Eastern Municipal Water District, West Basin Municipal Water District, Upper San Gabriel Valley Municipal Water District, and various others.

We look forward to meeting with the Board to discuss this matter.

Sincerely,

Olivarez Madruga Lemieux O'Neill, LLP

A handwritten signature in blue ink, appearing to read 'W. Keith Lemieux', is written over the typed name below.

W. Keith Lemieux

KL:km

Enclosures



OLIVAREZ MADRUGA LEMIEUX O'NEILL, LLP

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RESPONSE TO FILLMORE AND PIRU BASINS  
GROUNDWATER SUSTAINABILITY AGENCY'S  
REQUEST FOR PROPOSAL AND QUALIFICATIONS  
FOR LEGAL SERVICES

October 2017





**Table of Contents**

<b>Introduction</b> .....	1
<b>Qualifications</b> .....	1
Contracts .....	1
Agency Legal Matters .....	2
Policies .....	2
Agency Bylaws .....	2
Board of Director Meetings .....	3
Government Grants .....	3
Board Governance, Brown Act & Public Record Requests .....	3
Administrative and Judicial Actions .....	3
Litigation.....	4
Sustainable Groundwater Management Act .....	4
Rates, Fees, and Environmental Laws .....	4
Attorney Availability .....	5
Office Locations .....	5
<b>Respondent Team</b> .....	6
Steven P.O'Neill .....	6
W. Keith Lemieux .....	6
<b>Conflicts</b> .....	10
<b>Fee Proposal</b> .....	10
<b>References</b> .....	10
<b>Conclusion</b> .....	11

## **Introduction**

The Law Firm of Olivarez Madruga Lemieux O'Neill, LLP ("OMLO") is very pleased to submit the following response to Fillmore and Piru Basins Groundwater Sustainability Agency's ("Agency") request for general counsel services.

OMLO includes a boutique water practice, formerly known as Lemieux & O'Neill, that has provided representation to water districts in Southern California for the past 40 years. We have experience representing groundwater centered agencies on a variety of issues, including groundwater adjudications and SGMA implementation. We are confident that our firm provides precisely the specialized service needed by the Fillmore and Piru Basins Groundwater Sustainability Agency.

## **Qualifications**

OMLO is very well situated to advise the Agency's board on SGMA issues as we have been working to implement SGMA's provisions since its passage. We have formed joint powers authorities designed to act as the groundwater sustainability agencies for the Indian Wells and Bear Valley Basins. We have also been retained to serve as counsel for the Bedford-Coldwater GSA in Lake Elsinore, and the San Jacinto Basin GSA. Through this process, we have gained insight on how to best work with other government agencies and stakeholder groups to build the consensus necessary to implement the Act. We have also begun the process of consulting with our clients regarding the preparation of a Groundwater Sustainability Plan. Our firm has helped to form and currently represents several joint powers authorities, including the Las Virgenes – Triunfo Joint Powers Authority (organized to operate a recycled water system).

In our capacity as general counsel to water districts, we often appear on behalf of our clients before the Regional Water Quality Control Board. We have also interacted with the California State Water Resources Control Board on subjects such as Drought Response and related matters.

For convenience, we have organized this proposal so that it is responsive to the types of services identified in the request for proposal.

## **Contracts**

As general counsel for more than a dozen water districts in Southern California, we are very familiar with contracts to provide services to public agencies, and have drafted, reviewed and negotiated hundreds of such agreements.

The firm maintains a library of contract templates for simple and complex construction projects, consultants, and independent contractors. These form agreements have been refined over time in response to changes in the law and our experience in litigating claims. We have significant experience with the Public Contracts Code, the bidding process, bid disputes, change orders, bonding, and related subjects, such as project labor agreements.

### Agency Legal Matters

We regularly advise board and staff, in both open and closed sessions, on the variety of legal matters encountered by water agencies. Our experience provides us a great breadth of knowledge, as common issues tend to repeat. There are certain areas, such as bond issuances and other financing mechanisms, where we defer to special counsel.

### Personnel, Labor and Employment Matters

OMLO provides legal advice on public employee compensation and benefits issues with a thorough understanding of the heightened expectations placed upon those who work in the public sector, particularly during these times of increased public scrutiny and heightened demands for fiscal accountability. Our Labor Group has drafted employment agreements for top ranking public employees, negotiated settlement agreements with terminated employees, and executed agreements including compensation and benefits. We also have a comprehensive understanding of the CalPERS retirement benefits program, 457 deferred compensation plans, 125 flexible savings plans, and public agency compensation and benefits.

The firm has experience with disability and industrial disability retirements, employer contribution rates, and introducing innovative concepts to reduce municipalities' ballooning pension and retiree health benefits costs.

Today's employers are faced with many challenges including compliance with a complicated web of federal and state statutory and common law requirements that often result in litigation. OMLO has litigated all types of labor and employment disputes from inception through trial. The firm has handled nearly every type of employment litigation matter including wrongful termination, racial discrimination, gender discrimination, age discrimination, sexual harassment, hostile work environment, unfair employment practices, civil rights violations, First Amendment violations, claims related to violations of the Family Leave Act, HIPAA, the Americans With Disabilities Act, and violations of both the federal and state wage and hour claims.

The firm has represented its clients in hundreds of disciplinary and termination proceedings and handles sensitive negotiations with recognized employee bargaining groups (unions). The Firm also provides advice, counseling and representation on proper employment practices, including harassment, hostile work environment, discrimination, wrongful termination and wage and hour law.

### Policies

A regular part of our practice involves developing, reviewing and updating agency policies. Subject areas include procurement, ethics, personnel, and investment policies.

### Agency Bylaws

We have generated bylaws for several GSAs and could readily do the same for the Fillmore-Piru Basins GSA.

### Board of Director Meetings

One of the most significant parts of our job as general counsel for water agencies is representing our clients at public meetings. We attend dozens of public meetings each month and are very familiar with the issues that arise at such meetings. For example, we are experts in the application of the Brown Act, as well as Robert's Rules of Order, and other procedural considerations that may occur at a public meeting. We are also well-versed in the kinds of conflict of interest rules and other issues that regularly arise when a board takes legal action.

More importantly, we are also keenly aware that as general counsel we are part of the "publicly facing" staff. We are always mindful that we are appearing before the public. For some of our smaller clients that lack a dedicated public outreach department, we have offered suggestions regarding public outreach.

### Government Grants

OMLO's clients include several agencies who are regular applicants and recipients of state and federal grants. Recently, we have been assisting some of our clients with state revolving fund loans, and grants from the U.S. Army Corps of Engineers.

### Board Governance, Brown Act & Public Record Act Requests

One of the most significant parts of our job as general counsel for water agencies is representing the District at public meetings. We attend dozens of public meetings each month and are very familiar with the issues that arise at such meetings. For example, we are experts in the application of the Brown Act, as well as Robert's Rules of Order, and other procedural considerations that may occur at a public meeting. We are also well-versed in the kinds of conflict of interest rules and other issues that regularly arise when a board takes legal action.

OMLO regularly assists clients in responding to Public Records Act requests, briefing the custodian of records and helping the custodian draft response letters, review documents prior to production, and advising on statutory exclusions.

We have recently litigated Public Records Act cases and FOIA cases on behalf of Foothill Municipal Water District, Las Virgenes Municipal Water District, Upper San Gabriel Valley Municipal Water District, and Eastern Municipal Water District.

### Administrative and Judicial Actions

By virtue of its longstanding representation of public agencies, the Firm is comfortable promoting an agency's policy through administrative and judicial enforcement actions. We are regularly engaged in code enforcement activities for our city clients, and have brought actions on behalf of our clients in a variety of matters. These include challenging Total Maximum Daily Load (TMDL) limits and enforcing contract terms.

## Litigation

We have extensive litigation experience defending public entities and, particularly, water districts. The topics of such litigation range from construction defect cases, inverse condemnation claims, water rates and fees litigation, validation and reverse validation actions, and even defending alleged civil rights violations. We have litigated cases involving the California Environmental Quality Act, the Clean Water Act, the Government Claims Act, those provisions of the California Constitution related to water rights, as well as the setting of water, sewer, and other fees and charges (such as Proposition 26 and Proposition 218). We have represented our clients at both the trial and appellate level, and have even appeared at the California Supreme Court (defending public water suppliers in a toxic tort lawsuit involving alleged groundwater contamination).

## Sustainable Groundwater Management Act

An important part of our job representing water districts and groundwater sustainability agencies is to keep our clients informed regarding changes to the law. As you know, SGMA is a relatively young law and has already been revised. We will continue to keep abreast of revisions to SGMA and directives of the state in implementing the law. The firm regularly reviews assembly and senate bills that have potential to impact our clients and we expect Fillmore and Piru Basins GSA will benefit from this practice.

## Rates, Fees, and Environmental Laws

Our firm has provided legal advice on dozens of Proposition 218 rate adjustments. We understand the importance a thorough rate study plays in determining sound and defensible rates. We often work with our clients' rate study consultants to ensure all constitutional requirements are met. We have helped our clients to draft the notification to property owners, and provided advice and consultation regarding the conduct at public hearings. In certain cases where public controversy was anticipated, we worked with our boards to obtain outside consultants to provide public outreach and helped staff to prepare for public comment at hearings. We have also defended the water rates adopted by our clients in court. We are proud to say all rate adjustments we have supervised have survived court challenges.

Our clients are involved in every aspect of wholesale and retail water service, as well as sewer service. They are regularly involved in the wide variety of development, maintenance, and operational issues presented by providing water and sewer service in Southern California. They are also regularly engaged in water related infrastructure projects. Consequently, we advise on CEQA and NEPA issues on a regular basis. We have successfully litigated CEQA cases challenging the development of water resources, including reservoir construction and wetlands maintenance, and have been leaders in some of the most significant water quality litigation in the state.

Many of our clients maintain discharge permits and other permits with the Department of Water Resources and our firm regularly represents their interests before the Regional Board and the State Water Resources Control Board. Several of our agencies are involved in wastewater treatment. One of our clients developed a sophisticated wastewater treatment regimen, which incorporates

wastewater discharge to a local creek, and solids composting. Much of our wastewater work involves working with regulators on compliance and permitting issues

#### Attorney Availability

We are keenly aware that, when it comes to representing public agency clients, time is always of the essence. The firm understands that queries from Agency staff must be addressed immediately, and in no event later than the close of the business day, unless the request requires extensive research or the responsible attorney is engaged in a trial. In such event, the firm will strive to provide a response no later than the next business day.

Though all assignments are important, we recognize some will need to be prioritized. Direct dial cell phone numbers of our attorneys will be given to Agency and staff personnel to ensure immediate access when the need arises.

Because our offices represent a great number of water districts in Southern California, we have a heavy workload. However, there is a significant degree of consistency regarding the legal questions facing water districts. For example, last year, in response to both the *San Juan Capistrano* decision, and actions undertaken by the California Department of Water Resources, nearly all of our clients had significant water rate issues. Because we are faced with similar legal questions on behalf of all of our clients, we are able to efficiently and promptly respond to our clients' needs, despite the large number of water districts we represent.

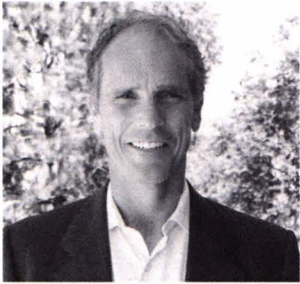
#### Office Locations

Olivarez Madruga Lemieux O'Neill, LLP has offices in three locations:

- 4165 E. Thousand Oaks Boulevard, Suite 350  
Westlake Village, CA 91362
- 500 S. Grand Avenue, 12<sup>th</sup> Fl.  
Los Angeles, CA 90071
- 11333 Valley Boulevard  
El Monte, CA 91731

Primary staff to be assigned to Agency are located in the Westlake Village office.

## Respondent Team



Steven P. O'Neill

Mr. O'Neill serves as General Counsel for Eastern Municipal Water District, West Basin Municipal Water District, Upper San Gabriel Valley Municipal Water District, and San Gabriel County Water District. As such, Mr. O'Neill regularly assists his water district clients and municipalities with consulting advice in all aspects of water law including: the California Environmental Quality Act (CEQA); groundwater rights adjudications; groundwater contamination; reclaimed and recycled water projects; urban water management plans; water distribution related issues; sewer service related issues; and water transfers and wheeling arrangements. He provides expertise in the California Environmental Quality Act, the Clean Water Act, the Porter-Cologne Act, the Sustainable Groundwater Management Act, along with those provisions of the California Constitution related to water rights, as well as the setting of water, sewer, and other fees and charges (such as Proposition 26 and Proposition 218).

Mr. O'Neill litigates in both federal and state courts, and has obtained multi-million dollar verdicts for his clients. He has litigated significant construction disputes, development agreements, rate structure challenges, and interest rate swap transactions.

Mr. O'Neill's resume is included here with Attachment A



W. Keith Lemieux

Mr. Lemieux serves as General Counsel for several Southern California water agencies, and is also the City Attorney for the City of Ridgecrest and City of San Gabriel. As such, Mr. Lemieux regularly assists his water district clients and municipalities with consulting advice in all aspects of water law including: the California Environmental Quality Act (CEQA); groundwater rights adjudications; groundwater contaminations; reclaimed and recycled water projects; urban water management plans; water distribution related issues; sewer service related issues; and water transfers and wheeling arrangements. Because of this, Mr. Lemieux has gained an expertise in the California Environmental Quality Act, the California Fish and Game codes, the Clean Water Act, the Porter-Cologne Act, the Sustainable Groundwater Management Act, those provisions of the California Constitution related to water rights, as well as the setting of water, sewer, and other fees and charges (such as Proposition 26 and Proposition 218).

Mr. Lemieux is general counsel for:

- Las Virgenes Municipal Water District
- Foothill Municipal Water District
- Valley County Water District
- Big Bear Municipal Water District

- San Gabriel County Water District
- Littlerock Creek Irrigation District
- Palm Ranch Irrigation District
- Indian Wells Valley Groundwater Authority
- Bear Valley Basin Groundwater Sustainability Agency
- Coldwater Groundwater Sustainability Authority
- City of Ridgecrest
- City of San Gabriel

Mr. Lemieux regularly attends several public meetings per week as general counsel and, as a result, is very aware of legal issues that arise during the conduct of such meetings, such as Brown Act issues and parliamentary procedure. In his role as general counsel, Mr. Lemieux regularly assists his clients in responding to Public Records Act requests, regularly advises his clients regarding the ethical obligations of staff and elected officials (conflict of interest, gift of funds, etc.), and routinely assists his clients in responding to government claims.

### *Litigation Experience*

Mr. Lemieux has had extensive litigation experience defending public entities and, particularly, water districts. The topics of such litigation range from construction defect cases, inverse condemnation claims, water rates and fees litigation, and even defending alleged civil rights violations. Mr. Lemieux has litigated cases involving California Environmental Quality Act, the Clean Water Act, the Government Claims Act, those provisions of the California Constitution related to water rights, as well as the setting of water, sewer, and other fees and charges (such as Proposition 26 and Proposition 218).

Mr. Lemieux has represented his clients at both the trial and appellate level, and has even appeared at the California Supreme Court defending public water suppliers in a toxic tort lawsuit involving alleged groundwater contamination.

Mr. Lemieux's positive "track record" can be measured by reference to the variety of successful *published* cases that bear his name:

*In re Groundwater Cases, Santamaria Group, (2007) 144 Cal.App.4<sup>th</sup> 659:* Was the largest case in Mr. Lemieux's career. Mr. Lemieux's public entity clients were sued by approximately 2,400 plaintiffs, claiming they had contracted cancer as the result of the delivery of water alleged to have contained approximately 13 toxic chemicals. Included among these claims were dozens of claims for wrongful death. Each claimant alleged 27 separate causes of action against each of the public entities. The claimed damages were well in excess of \$100 million dollars. The large plaintiffs' firms who had brought this case hoped it would be the basis for a new "cottage industry" of litigation to replace the asbestos cases that were winding down at the time.

The public water supplier defendants had, for the most part, delivered water in compliance with the water quality standards applicable at the time of delivery. That meant for many of the contaminants, there was no attempt to test for or treat for the contaminants. The plaintiffs alleged that the public water suppliers had the duty to make sure the water delivered was clean and suitable for public consumption.



This case was designated as a “complex” matter and assigned to a special judge who created a unique procedure to adjudicate this matter. After permitting initial discovery, the court allowed Mr. Lemieux to divide the 27 causes of action into related claims and then to interpose a legal challenge to each of them. Ultimately, the court found that the public water suppliers could not be liable on any claim unless the plaintiffs could demonstrate that the public water supplier violated the water standards in effect *at the time of the alleged wrongdoing*. This meant the public water suppliers could not be liable for an exceedance of a maximum contaminant level unless it could be shown the public water suppliers failed to comply with the direction of (what was then called) the Department of Health Services.

The court then allowed additional discovery to take place to determine whether the public entities were in compliance. After determination, there was no significant acts of non-compliance, the court sustained Mr. Lemieux’s motion to dismiss the case.

Plaintiffs appealed this matter, which resulted in the published opinion described above. As a result of this published opinion, it is now established law throughout the state that public entities may not be liable for the condition of their delivered water unless it can be shown that the delivery was in violation of state regulations. Since this case was published, it has been repeatedly cited in other cases, and used by other water districts as a defense (most recently in the “copper pitting” cases).

Other published opinions include:

*Hartwell Corp. v. Superior Court*, (2002) 27 Cal.4<sup>th</sup> 256: This published opinion also arose from the same toxic tort litigation described above. It stands for the proposition that the California Public Utilities Commission retains exclusive jurisdiction over regulated entities that deliver allegedly contaminated water.

*N.L. Nielson v. City of California City*, (2006) 133 Cal.App.4<sup>th</sup> 1296: A taxpayer challenged a flat rate parcel tax on the grounds that taxes based on the ownership of property are constitutionally required to be *ad valorem* taxes. The Court of Appeal held that the California Constitution did not prohibit a tax on the mere ownership of property provided the tax otherwise met the definition of a special tax.

Mr. Lemieux has also represented private parties and public water suppliers in two recent groundwater adjudications, including the *Santa Maria Groundwater* adjudication (See *City of Santa Maria v. Adam*, (2013) 211 Cal.App.4<sup>th</sup> 266) and the *Antelope Valley Groundwater* Adjudication (currently on appeal). Both cases involve competing claims by various classes of water user to the limited water resources of a groundwater basin. To resolve these disputes, Mr. Lemieux was required to present legal analysis regarding the complicated and sometimes arcane system of California groundwater rights.

The *Santa Maria Groundwater* case was resolved successfully on behalf of Mr. Lemieux’s clients after approximately ten years of litigation. However, other parties were unable to successfully resolve their claims and even after nearly 20 years of litigation, that case is still ongoing for those remaining parties. The settlement resulting in a physical solution to manage the basin.

Mr. Lemieux was likewise able to successfully resolve the *Antelope Valley Groundwater* matter on behalf of his clients after approximately 15 years of litigation. That settlement process was only completed after the parties had conducted five separate phases of trial to litigate the basin boundaries, the area of adjudication, the native safe yield, the federal government's special reserve rights, and, finally, the individual pumping rights of each party. Even after a settlement was reached, a final phase of trial was conducted so the settling parties could defend the settlement against a small number of non-settling parties that had not been granted any rights under the settlement. This matter is currently on appeal.

As a result of the *Antelope Valley Groundwater* settlement, a new watermaster was formed. Since that time, Mr. Lemieux has represented the interests of five public agencies at watermaster meetings and has been significantly involved in the ongoing formation of that entity.

Mr. Lemieux has also successfully represented his clients in other numerous cases:

In *Calabasas Park Estates v. Las Virgenes Municipal Water District*, a homeowners association alleged a district water line was causing soil movement that damaged four different residences, as well as the common areas and streets. Mr. Lemieux successfully resolved the case through mediation by demonstrating the movement was caused by expanding soil. Not only did the district avoid any payment but since the homeowners association was a successor-in-interest to the developer by contract, Mr. Lemieux was able to secure payment on behalf of the District for repairs to the district's pipeline.

Likewise, in *Charles Weber v. Las Virgenes Municipal Water District*, five landowners asserted liability against the district claiming a break in the district's pipeline washed out a road that provided access to their properties. However, at mediation, Mr. Lemieux was able to successfully demonstrate that the destruction of the road was caused by the developer for one of the property owners. Again, the district not only avoided any payment but instead obtain approximately \$100,000.00 from the insurance company of the property owners in order to pay for the cost of the district's pipeline.

Prior to the application of Proposition 218 to water rates, Mr. Lemieux was able to successfully defend the water rates of Las Virgenes Municipal Water District against a challenge that these rates were not related to the cost of providing service. The lawsuit had been brought by a local winery that demanded the district establish special agricultural rates. After a brief trial, Mr. Lemieux obtained a court order upholding the district's rates.

On behalf of his city clients, Mr. Lemieux has successfully defended against numerous claims relating to dangerous conditions of public property, civil rights, and public contracting.

Recently, Mr. Lemieux obtained a very favorable result involving a dispute between the City of Ridgecrest and its franchise trash hauler at the time, Benz Sanitation District. Benz brought an action against the city, alleging breach of its franchise agreement based on certain modifications to the agreement requested by the city council. After investigation, Mr. Lemieux's defense team determined the waste hauler had been defrauding both the City of Ridgecrest, as well as the County of Kern, as a result of certain unlawful practices. Mr. Lemieux brought this information to the attention of the California Attorney General, who then used the information generated by Mr. Lemieux to file a criminal complaint against the owner of the company, Paul Benz. Paul Benz

subsequently pled guilty to fraud and agreed to pay in restitution more than \$2,000,000.00 to the County of Kern and approximately \$750,000.00 to the City of Ridgecrest. (The civil case was also dismissed as part of his plea.)

Mr. Lemieux's current resume is included here with Attachment A.

### **Conflicts**

We are not aware of any potential conflicts of interest. Our firm represents the City of Oxnard as special counsel for water matters. We will obtain a waiver of conflict if needed.

### **Fee Proposal**

We propose to bill Fillmore and Piru Basins Groundwater Sustainability Agency for services on an hourly basis. We are prepared to offer our services at a rate of \$200 per hour for the first 25 hours worked in a month. After that, we would bill Agency at a rate of \$225 per hour for partners, and \$185 per hour for associates.

These services would be provided pursuant to a written agreement, and our rates could not be increased thereafter unless it was approved by the Board at a public meeting.

The request for proposal did not include a projection as to the number of hours expected per month. We are prepared to work for Agency on a flat retainer basis if desired by Agency, but we cannot propose a dollar amount for the retainer until the number of hours are known.

### **References**

Las Virgenes Municipal Water District  
4232 Las Virgenes Road  
Calabasas, CA 91302  
David W. Pedersen, General Manager  
(818) 251-2100

Eastern Municipal Water District  
P. O. Box 8300  
Perris, CA 92572-8300  
Paul D. Jones, II, P.E., General Manager  
(951) 928-3777

Indian Wells Valley GSA  
1115 Truxtun Ave, 5th Floor  
Bakersfield, CA 93301  
Alan Christensen  
Chief Deputy CAO for Water Resources  
(661) 868-3183

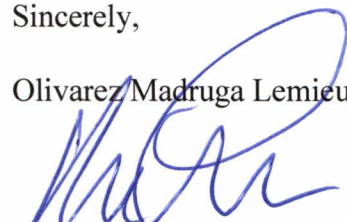
Bear Valley Basin GSA  
P.O. Box 2863  
Big Bear Lake, CA 92315  
Mike Stephenson  
(909) 866-5796

**Conclusion**

Once again, we are grateful for the opportunity to submit the enclosed proposal for services. We look forward to meeting with the Board. Please give us a call if you have any questions about any of the information contained herein.

Sincerely,

Olivarez Madruga Lemieux O'Neill, LLP



W. Keith Lemieux

# Attachment A



**STEVEN P. O'NEILL**  
**Partner**

[soneill@omlowlaw.com](mailto:soneill@omlowlaw.com)

**State Bar Number 143075**

---

### **PROFESSIONAL EXPERIENCE**

Steven O'Neill is a partner of the firm and oversees all transactional and litigation matters for a wide variety of public entities and private sector clients. He currently serves as general counsel for Eastern Municipal Water District, West Basin Municipal Water District, Upper San Gabriel Valley Municipal Water District, and several other water agencies in Southern California. Mr. O'Neill represents both public and private entities, emphasizing water law, environmental law, and municipal law. Mr. O'Neill guides the firm's primary practice area of natural resources management, including CEQA, water rights, and water quality issues. He regularly advises clients on alternative water supply issues, including the development and sale of recycled water.

Mr. O'Neill also provides legislative and policy support to clients through drafting regulations and statutes concerning enforcement and supply issues.

### **EDUCATION**

- Loyola Law School, Los Angeles, CA, J.D., 1985
- Dartmouth College, Hanover, NH, B.A., 1980

### **LITIGATION EXPERIENCE**

Has litigated on behalf of both private and public entities in a variety of cases. Experienced in environmental litigation, CERCLA, CEQA, toxic torts, endangered species, groundwater adjudication, water rights, and water quality issues.

### **ACTIVITIES**

- University of California Santa Barbara Extension - Lecturer on water law and environmental issues
- Regular presenter at the Association of California Water Agencies (ACWA).
- Speaker to industry coalitions on the Corporate Criminal Liability Act, conflicts of interest, and ethics.

**BAR AND COURT ADMISSIONS**

- State Bar of California (1989)
- State of California Courts (1989)
- California Court of Appeal (1989)
- California Supreme Court (1989)
- United States District Court, Northern (2014)
- Ninth Circuit Court of Appeals (2007)



**W. KEITH LEMIEUX**  
**Partner**

[klemieux@omlowlaw.com](mailto:klemieux@omlowlaw.com)  
**State Bar Number 161850**

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### **PROFESSIONAL EXPERIENCE**

Clients include public agencies, cities, water districts, mutual water companies, and small businesses. He is a locally recognized expert on topics such as government liability, water rights, and environmental law. Mr. Lemieux has appeared in all levels of court, including the California Supreme Court and the Federal Court of Claims in Washington D.C.

A case brought by Mr. Lemieux on behalf of a local water district against polluters resulted in the construction of a 32-million-dollar groundwater treatment plant which now provides safe, clean water to several communities. Mr. Lemieux has represented clients in several cases that have become the published precedent on topics such as environmental law and public agency liability.

Mr. Lemieux was appointed public agency lead in a complex case filed by more than 2,400 parties that claimed personal injuries from the delivery of allegedly contaminated groundwater. Mr. Lemieux's successful defense of that case resulted in a new California precedent that recognized immunity for his clients.

### **EDUCATION**

- University of Pepperdine Law School, Malibu, CA, J.D., 1992
- University of California, Santa Barbara, CA, B.A., 1989

### **PUBLISHED OPINIONS**

- *In re Groundwater Cases, Santamaria Group*, (2007) 144 Cal.App.4<sup>th</sup> 659
- *Hartwell Corp. v. Superior Court*, (2002) 27 Cal.4<sup>th</sup> 256
- *City of Vernon v. Central Basin Municipal Water District, et al.*, (1999) 69 Cal.App.4<sup>th</sup> 508
- *N.L. Nielson v. City of California City*, (2006) 133 Cal.App.4<sup>th</sup> 1296

### **ACTIVITIES**

Drafted several sections of the *Public Agency Officials' Complete Source Book*. He has contributed articles and lectured on the California Tort Claims Act, Proposition 218, and California conflict of interest law. Pioneered litigating the law of water rate setting when he tried one of the first cases to interpret Proposition 218 in the context of water rates. He has also had particular success in representation of cities and police officers in civil rights matters and other disputes.



**BAR AND COURT ADMISSIONS**

- State Bar of California (1992)
- State of California Courts (1992)
- California Court of Appeal (1992)
- California Supreme Court (1992)
- United States District Court, Central (1993), Eastern (1994), Northern (2014)
- United States Court of Federal Claims (1996)
- Ninth Circuit Court of Appeals (1996)



THE LAW OFFICES OF

A Limited Liability Partnership · Est. 1939

Alan F. Doud, Senior Attorney

October 19, 2017

Fillmore and Piru Basins GSA  
c/o City of Fillmore  
250 Central Avenue  
Fillmore, CA 93015

RE: Response to Request for Proposal and Qualifications for Groundwater  
Sustainability Legal Services

Dear Ladies and Gentlemen:

Thank you for the opportunity to respond to your Request for Proposal and Qualifications for Groundwater Sustainability Agency Legal Services (the "Request").

Young Wooldridge is a full-service law firm organized into specialty practice areas. The Water and Special Districts Department currently has five attorneys serving as general counsel to over 35 public agencies throughout the state of California. We continue to build on specialized water resources knowledge established by the Firm's founding partners who played a key role in establishing and expanding this expertise as the State and Federal water projects were being constructed. A brief description of the Firm and the Water Department attorney's qualifications and experience is detailed in the enclosed resumes.

The majority of our work is in Kern, Tulare, Fresno and Kings Counties. We also do considerable work for water agencies in Santa Barbara and San Luis Obispo Counties, including for the Santa Ynez River Water Conservation District and the newly formed Shandon-San Juan Water District and Cuyama Basin Water District. Additionally, we are general counsel to the Sites Joint Powers Authority with regard to the proposed Sites Reservoir Project in the Sacramento Valley.

A summary of our attorneys' experience serving public water agencies includes: (1) Federal- A wide variety of matters regarding the Friant Division of the Central Valley Project (CVP) regarding the Department of the Interior (Bureau of Reclamation, Fish & Wildlife Service, Bureau of Land Management), Army Corps of Engineers and National Oceanic Atmospheric Administration, including Federal Court and Court of Claims litigations concerning CVP San Joaquin River water allocations and water rights, Federal Reclamation Law, NEPA, Clean Water Act, and ESA compliance, water service contract renewal negotiations and repayment contract conversions, Federal agency rule making, as well as a variety of Federal legislation; (2) State- Numerous projects regarding the State Water Resources Control Board, California Natural Resources Agency (Department of Water Resources, California Department of Fish & Wildlife) concerning negotiation, administration and litigation of the State Water Project (SWP) Monterey Amendments and CEQA compliance by SWP contractors; (3) Groundwater Banking & SGMA- formation and development of groundwater banking projects by Semitropic Water Storage

District, Arvin-Edison Water Storage District-Metropolitan Water District of Southern California, Kern Water Bank Authority (including a comprehensive Habitat Conservation Plan), and numerous projects regarding compliance with SGMA; (4) Water Rights- surface water and groundwater water right negotiations and litigation relating to the Kern River, a wide range of services to the Kern River Watermaster regarding operation of Isabella Dam and Reservoir by the United States Army Corps of Engineers, and extensive experience concerning groundwater rights as determined in the Santa Maria and Antelope Valley Groundwater Adjudications; and (5) General Public Agency- Considerable background in general public agency laws including the Public Meeting/Brown Act, Public Records Act, Proposition 218, Conflicts of Interest, Public Contract Code, etc.

Scott Kuney, who would be your Lead Counsel, has for over 30 years been representing various public agencies on a broad range of matters. Scott's breadth of knowledge and experience includes both water and public agency law as well as extensive surface and groundwater rights litigation including representation of several major landowners in the Santa Maria and Antelope Valley Adjudications. Scott has been directly involved in the drafting of SGMA legislation, Department of Water Resources rule making, and now SGMA implementation including the formation of Groundwater Sustainability Agencies and development of Groundwater Sustainability Plans in several critically overdrafted groundwater basins. I would be Scott's principal support in the Firm's representation of the Agency, though all five of the attorneys in the Water Department work together as a coordinated team to fulfill our clients' needs. To the extent possible, it is our practice to assign work to attorneys at lesser hourly rates so we can keep our clients legal costs at a minimum. In the event the Agency requires services concerning employment related matters, Jerry Pearson is an employment specialist and will be prepared to serve as legal counsel on such matters just as he does for all our public agency clients. Periodically, the Firm provides general legal updates to its clients which will be available to the Agency without additional charge.

The breadth of our team's experience, and in particular our expertise in groundwater issues and SGMA, uniquely position us to provide the legal representation you are seeking. Our statement of qualifications, an overview of our team, our fee schedule, a conflicts statement, and list of references follow this letter. We look forward to speaking with you further about the opportunity to represent the Agency.

Very truly yours,



Alan F. Doud, Esq.  
Senior Attorney

Enclosures

## QUALIFICATIONS

1. *Firm or individual attorney must have at least 10 years of public law experience representing public agencies, special districts, municipal governments, or joint powers authorities in California.*

Young Wooldridge, LLP, is a 78 year-old firm. We have 9 partners, 4 associates, 2 of counsel attorneys, 6 paralegals and 18 other employees. Our office is located in downtown Bakersfield. The Agency's representation would come principally from the Water Law and Special District's Department, with occasional support from our Employment, Litigation and Business Departments. We have included a curriculum vitae for Jerry Pearson, who handles all employment matters for the Water Department's clients.

2. *All attorneys performing services must be admitted to practice in the State of California and be members in good standing with the State Bar of California.*

We confirm that all of the attorneys from our Firm that might perform services for the Agency are admitted to practice in California and in good standing with the State Bar. Copies of their resumes are attached.

3. *The attorney with primary responsibility for the services provided to the Agency ("Lead Counsel"), must have at least (ten) 10 years experience providing general counsel legal services for local public agencies, special districts, or municipalities.*

Your Lead Counsel would be Scott Kuney, who has been licensed to practice law in California for almost 34 years. Scott is one of the Firm's managing partners, and has spent his entire legal career representing special districts and public agencies.

4. *Demonstrated legal expertise in the following practice areas as they relate to public agencies, special districts, municipal governments, and joint powers authorities in California:*

a) *General Counsel – Laws and regulations that pertain to the governance of public entities including, but not limited to, California joint powers authorities, special districts, water districts, irrigation districts and municipalities. The relevant laws and regulations include, but are not limited to, the Ralph M. Brown Act; Public Records Act; Political Reform Act; conflicts of interest laws; general public entity and municipal law; the California Government Code and California Water Code; public agency bylaws and policies; public contracting and procurement processes and operating procedures; and rules of order relative to the conduct of joint powers authorities, special districts, water districts, irrigation districts and municipalities.*

In the course of representing our clients, including major public agency clients, we routinely address each of the laws listed above. In particular, we provide ethics training as required

by AB 1234 to our clients and their Boards of Directors, which is a good vehicle for updating compliance with these laws and others. Also, in connection with the active construction programs of several of our clients, we have become familiar with public works procurement processes and construction, and occasionally litigation arising therefrom. We regularly attend most Board meetings of the major clients listed (see client list below).

The Firm is equipped to provide all of the General Counsel services referenced in the Request. Almost all work on behalf of the Agency would be performed by the Water Department; though, on occasion it is desirable for us to involve attorneys from the Firm's other departments. This would typically occur when personnel and employment issues arise or as the Agency's time constraints or cost concerns dictate.

b) *Special Counsel – In addition to the General Counsel expertise, it is desirable for the selected law firm to have expertise in a few specialty areas, including, but not necessarily limited to:*

*The Sustainable Groundwater Management Act:*

We are very familiar with SGMA, including the formation of GSAs and preparation of GSPs. We are presently representing clients in 8 different basins, 6 of which are classified by DWR as being in critical overdraft and therefore GSPs are due in January 2020. In 2014, Ernest Conant was part of the ACWA drafting committee that helped develop SGMA (under threat of the Legislature and Administration proceeding without our input). Consequently, our Department is very familiar with its development and intent.

*Water rights matters in state courts and before the State Water Resources Control Board.*

Scott Kuney, Steven Torigiani, Alan Doud and Jeff Patrick have been involved in extensive litigation involving the Kern River. We have been involved in various proceedings before the State Board, including the Kern River, Cachuma Project, and Irrigated Lands Regulatory Program. Scott has also represented landowners in the Santa Maria and Antelope Valley Groundwater Adjudications for the last 20 years.

*Public financing and revenue mechanisms, including Proposition 26 and 218.*

We routinely provide advice to our clients regarding compliance with Proposition 218, both for assessments and charges, and the intersection with Proposition 26 and regulatory fees. In particular, we are knowledgeable as to financial powers provided for in SGMA related to fees, and are presently involved with "early implementation" of SGMA groundwater charges through special legislation for Semitropic Water Storage District (Water Code Sec. 44200 et seq). Additionally, we generally, work with bond counsel and staff of our public agencies to secure financing as needed.

*Environmental law, including: California Environmental Quality Act (CEQA); federal National Environmental Policy Act (NEPA); California and federal Endangered Species Acts; federal Clean Water Act and the California Porter-Cologne Water Quality Act.*

Through our existing clients, we have been involved with providing advice and in some cases defending litigation involving these laws for our clients, including litigation pertaining to the Kern River, the Cachuma Project, and the Kern Water Bank.

*Governance of public agencies, special districts, municipalities, and joint powers authorities, including amendments and bylaws, and experience interfacing with counsel for joint powers member agencies.*

We handle public agency administrative and governance issues on an almost daily basis. Of pertinence to the Agency, through our representation of the Kern Water Bank Authority, Kern River Watershed Water Quality Coalition, White Wolf GSA and Sites Project Authority, we are familiar with these administrative and governance issues particularly as they concern JPAs. In the course of such representation, we have on many occasions interacted with “home board” counsel to develop acceptable joint powers agreements, bylaws and project agreements, including recent interactions with counsel for Sites Authority Members.

*Other relevant areas pertaining to special district and public entity law.*

In the course of representing our existing clients we routinely address a wide variety of issues, including liability claims, compliance with various laws, providing classes and advice involving various ethical laws and risk avoidance/transfer principally through contractual arrangements.

5) *Lead Counsel shall typically attend all Governing Board meetings, and the attorney must be accessible to provide legal assistance to the Agency on an urgent basis, from time to time.*

Understood.

### **PROPOSED RESPONDENT TEAM**

Scott Kuney would serve as Lead Counsel, and Alan Doud would be the principle “backup attorney”. Other attorneys in our water and special districts practice group include Ernest Conant, Steven Torigiani, and Jeff Patrick, along with Jerry Pearson for HR issues. Our resumes are attached which summarize our experience and I will not repeat here.

**FEE SCHEDULE**

**HOURLY RATES FOR LEGAL PERSONNEL**

Senior Attorneys	_____	\$270.00	(10 or more years of experience)
Junior Attorneys	_____	\$240.00	(5 to 10 years of experience)
Associate II	_____	\$210.00	(3 to 4 years of experience)
Associate I	_____	\$190.00	(less than 3 years of experience)
Law Clerk	_____	\$130.00	
Legal Assistant/ Paralegal	_____	\$90.00	

We would charge travel time to and from the Agency's offices during regular business hours.

**CONFLICTS**

None

**REFERENCES**

Arvin-Edison WSD PO Box 175 Arvin, CA 93203	Jeevan Muhar, Engineer-Manager	(661) 854-5573
Santa Ynez RWCD PO Box 719 Santa Ynez, CA 93460	Chris Dahlstrom, General Manager	(805) 688-6015
White Wolf GSA PO Box 1000 Lebec, CA 93243	Angelica Martin, Alternate Director	(661) 248-3000

## EDUCATION

UNIVERSITY OF CALIFORNIA - SANTA BARBARA, CALIFORNIA  
BA, COMBINED SOCIAL SCIENCE - 1979 (WITH HIGH HONORS)

UNIVERSITY OF BIRMINGHAM, ENGLAND  
HONORS SCHOLARSHIP - 1978

UNIVERSITY OF THE PACIFIC - MCGEORGE SCHOOL OF LAW - JD - 1983

## WORK EXPERIENCE

1979 - 1981: League of Conservation Voters, Washington, D.C., political analyst.  
1982 -1983: Young, Wooldridge, Paulden, Self, Farr & Griffin, law clerk.  
1983 to Present: The Law Offices of Young Wooldridge, LLP. Hired as Associate; Partner 1989.  
Martindale-Hubble Rating: AV

## ACTIVITIES and AWARDS

1977 - 1978: Honors scholarship, University of Birmingham, England (Economic History Fellowship).  
1982 - 1983: Honors Board, University of the Pacific, McGeorge School of Law, National Moot Court Competition Team.  
1983 to Present: American Bar Association, Natural Resources Section.  
2010 to Present: ACWA Legal Affairs Committee

## CURRENT RESPONSIBILITIES and PRACTICE

Mr. Kuney is a partner in the Water/Special Districts Department of the Firm, where he specializes in the area of water rights, eminent domain litigation, CEQA/NEPA and Endangered Species Act issues and Federal Reclamation Law matters. Public water agency clients include: Arvin-Edison Water Storage District, Wheeler Ridge-Maricopa Water Storage District, North Kern Water Storage District, Semitropic Water Storage District, Kern Tulare Water District, Shafter-Wasco Irrigation District, Southern San Joaquin Municipal Utility District, Kern Water Bank Authority, Semitropic-Rosamond Water Bank Authority, Porterville Irrigation District and Orange Cove Irrigation District.

Presently, Mr. Kuney is involved in various projects being litigated in both State and Federal courts. Ongoing projects include the Federal Court litigation surrounding the Central Valley Project and San Joaquin River water allocations and water rights, implementation of the comprehensive settlement agreement for the San Joaquin River, representation of several Kern River water agencies with regard to conservation storage in Isabella Reservoir, and the Santa Maria Basin and Antelope Valley Basin groundwater adjudications. Mr. Kuney was lead trial counsel for the plaintiff in two multiple month trials concerning pre-1914 appropriative water rights. A final judgment in favor of his client was entered declaring a partial forfeiture of water rights. (North Kern Water Storage District v. Kern Delta Water District (2007) 147 Cal.App.4th 555.)



## EDUCATION

UNIVERSITY OF SAN DIEGO SCHOOL OF LAW, San Diego, CA  
Juris Doctor, 2006

GUSTAVUS ADOLPHUS COLLEGE, St. Peter, MN.  
Bachelor of Arts, *cum laude*, in Political Science, June 1997

## WORK EXPERIENCE

1997-2000: Office of Congressman George Radanovich, Legislative Assistant  
2001-2006: Mail Boxes Etc., Inc./The UPS Store, Legal Supervisor  
2007-2008: Timothy Pickwell and Associates, APC, Contract Attorney  
2008: Ross, Dixon & Bell, LLP, Contract Attorney  
2008-2013: The Law Offices of Young Wooldridge, LLP, Associate Attorney  
2013-2017: Tejon Ranch Company, Senior Counsel  
Present: The Law Offices of Young Wooldridge, LLP, Senior Attorney

## ACTIVITIES AND AWARDS

2015-Present Martindale-Hubbell BV Distinguished Attorney Rating  
2012-Present Kern County Farm Bureau, Board Member  
2012-Present National Housing Support Corporation, Board Member  
2016-2017 In-House Counsel Section of the Kern County Bar Association, Treasurer  
2016-Present Bakersfield Symphony Orchestra, Executive Board Member  
2010-2011 Leadership Bakersfield Program  
1991 Eagle Scout

## CURRENT RESPONSIBILITIES and PRACTICE

Mr. Doud is a senior attorney in the Firm's Water Law Department. He advises the Firm's client's primarily in the areas of water, environmental, land use, and public agency law. The Firm provides general legal services to numerous public agencies in California that engage in the management and distribution of water to customers for a variety of uses. Mr. Doud supports these clients in both a litigation and transactional capacity.

## EDUCATION

CAL POLYTECHNIC STATE UNIVERSITY - San Luis Obispo, California  
BS, Agricultural Business Management - 1975 (with honors)

PEPPERDINE UNIVERSITY SCHOOL OF LAW - Malibu, California - JD - 1979

## WORK EXPERIENCE

- Summer 1975:* Agricultural Council of California (lobbying organization). Intern.
- 1976:* FMC Corporation, Agricultural Machinery Division. Marketing Specialist.
- Summer 1977:* California Senate Republican Caucus, Research Assistant.
- Summer 1978-79:* Pacific Legal Foundation. Law Clerk.
- 1979 to Present:* The Law Offices of Young Wooldridge, LLP. Hired as Associate; Partner 1982.  
Martindale-Hubbell Rating: AV

## ACTIVITIES and AWARDS

- 1975:* Outstanding Student, School of Agriculture Natural Resources, Cal Polytechnic State University.
- 1985 - 1986:* Participant, Class XV, California Agricultural Leadership Program. (1984-86)
- 1984 to Present:* Secretary and Board Member, Water Association of Kern County.
- 1987 to 2000:* Board of Trustees, Kern County Historical Society; President 1993-1995.
- 1990 to 2009:* ACWA Legal Affairs Committee.
- 1998 to Present* ACWA Legislative Committee.
- 2001 to 2009:* Board of Directors, Tulare Lake Basin Water Storage District.

## CURRENT RESPONSIBILITIES and PRACTICE

Mr. Conant is head of the Water/Special Districts Department of the Firm. Young Wooldridge serves as general counsel for the following: Angiola Water District, Arvin-Edison Water Storage District, Del Puerto Water District, James Irrigation District, Kern River Watermaster, Kern Water Bank Authority, North Kern Water Storage District, Rag Gulch Water District, Santa Ynez River Water Conservation District, Semitropic Water Storage District, Shafter-Wasco Irrigation District Sites Project Authority, Southern San Joaquin Municipal Utility District, Stallion Springs Community Services District, Vaughn Water Company, Wheeler Ridge-Maricopa Water Storage District. He attends various board meetings, handles all matters of a legal nature affecting those districts and participates in policy-making decisions. The Department is routinely involved in negotiations with various public agencies, including the State of California and the Bureau of Reclamation, in cooperation with various districts' consulting engineers, financial consultants and the like.

Some of the more recent activities, which these districts and agencies have been involved with and which Mr. Conant participated in developing include:

- Development of the Semitropic Water Storage District Water Banking Program with various urban agencies
- Implementation of the Monterey Amendments among State Water Project Contractors
- Formation of the Kern Water Bank Authority and development of its Project, including a comprehensive Habitat Conservation Plan
- Development of Arvin-Edison Water Storage District-Metropolitan Water District of Southern California Water Banking Program
- Negotiation of 112 CVP Renewal Contracts, serving as Chairman of Contractors' Drafting Committee
- Special Counsel for the Friant Water User Authority in negotiating the San Joaquin River Settlement, resolving 20 years of litigation among various parties, pursuing the congressional legislation necessary for its implementation, enacted in 2009, and chairing negotiations on behalf of the Friant Contractors of Repayment Contracts with the United States
- Development of various AB 3030 Groundwater Management Plans, and participated in development and implementation of the Sustainable Groundwater Management Act.
- Financing & refinancing of various public projects

## EDUCATION

UNIVERSITY OF THE PACIFIC, MCGEORGE SCHOOL OF LAW - Sacramento, California - JD - 1993

CALIFORNIA POLYTECHNIC STATE UNIVERSITY - San Luis Obispo, California  
BS, Agricultural Management - 1990 *Cum Laude*

## WORK EXPERIENCE

*Summer 1983-86:* Torigiani Farms.  
*Summer 1987-88:* Buena Vista Water Storage District.  
*Summer 1989:* Bakersfield PCA/Federal Land Bank Association. Internship.  
*Summer 1990:* Borton, Petrini & Conron. Clerk.  
*Summer 1991-92:* Young, Wooldridge, Paulden, Self & Farr. Law Clerk.  
*1993 - Present:* The Law Offices of Young Wooldridge, LLP. Co-Managing Partner.

## ACTIVITIES and AWARDS (Past and Present)

- President's List, California Polytechnic State University.
- State Bar of California; Kern County Bar Association.
- Bakersfield Active 20/30 Club. Member.
- Italian Heritage Dante Association. Board of Directors.
- Mock Trial Competition. Attorney Coach, Stockdale High School.  
Kern County Champions - 1997, 1998, 1999, 2000, 2001.
- Kern Firefighters Activities League. Board of Directors.
- Seven Oaks Country Club. Member.

## REPRESENTATIVE SPEAKING ENGAGEMENTS and APPELLATE CASES

- Speaker, "Whatever Happened to the Monterey Amendment?," 2013 Environmental Law Conference at Yosemite, California State Bar, Fish Camp (October 2013)
- Speaker, "Navigating Not So Navigable Waters of the US (WOTUS)," Kern County Agricultural Water Summit, and Cal. State Univ. Bakersfield (July/October 2016)
- Speaker, "Santa Ynez River Update," 2017 California Water Law & Policy MCLE Conference, Argent Communications, San Francisco (June 2017)
- *Water Rights: North Kern WSD v. Kern Delta Water Dist.* (2007) 147 Cal.App.4th 555
- *CEQA/Water Transfer: PCL v. Castaic Lake Water Agency* (2009) 180 Cal.App.4th 210
- *CEQA/Water Supply Contract: Central Delta Water Agency v. DWR*, C078249 (Pending)

## CURRENT RESPONSIBILITIES and PRACTICE

Mr. Torigiani is a co-managing partner of the Firm, and has practiced in its water department for almost 25 years. His primary areas of practice include water, real property, land use, eminent domain, and environmental law, particularly matters involving water rights (surface and groundwater), water quality, and compliance the California Environmental Quality Act (CEQA), Sustainable Groundwater Management Act (SGMA) and other laws and regulations applicable to public and private water clients. His practice is both transactional and litigation. He regularly provides advice on a wide variety of issues to water storage districts and other public water entities with regard to the planning, formation, implementation and, as necessary, defense of their water projects, including water banks, and transactions. Mr. Torigiani has been and continues to be involved in many complex water-related litigations and regulatory proceedings, including several lengthy trials, writ of mandate actions, and State Water Resources Control Board proceedings.

## **EDUCATION**

University of the Pacific, McGeorge School of Law  
Juris Doctor, *with great distinction*, May 2012  
*Order of the Coif and Traynor Honor Society*

California Polytechnic State University  
Bachelor of Arts in English, *cum laude*, June 2009

## **WORK EXPERIENCE**

2012-Present: Young Wooldridge, LLP, Attorney, Water Law and Public Agency Department

Spring 2012: U.S. Bankruptcy Court, Eastern District, Judicial Extern to Judge McManus

Spring 2012: Palmer Kazanjian Wohl Hodson, LLP, Law Clerk

Summer 2011: Porter Scott, APC, Summer Associate

Winter 2010: California Attorney General's Office, Public Rights Division, Student Extern

Summer 2010: Young Wooldridge, LLP, Law Clerk

## **ACTIVITIES and AWARDS**

William R. Gianelli Water Leaders, Class of 2016

Leadership Bakersfield, Class of 2014

Kern County Bar Association, Young Lawyer Section, 2012-Present

## **CURRENT RESPONSIBILITIES AND PRACTICE**

- Act as assistant general counsel to over thirty public agencies throughout Central California, including water districts, irrigation districts, water storage districts, community services districts, municipal utility districts and joint powers authorities
- Advise clients on issues related to: water service rates and assessments (Proposition 218 and 26 ratemaking), SGMA compliance, SWRCB licenses and water-use reporting, water rights, water supply transfers, groundwater banking, public works contracting and prevailing wage, annexations, conflicts of interest and the Political Reform Act, election law, eminent domain, Brown Act, and Public Records Act
- Prepare, review and negotiate contracts for well-share agreements, easements, real property transfers, water-banking projects, temporary water sales, public construction projects and agreements with the High Speed Rail Authority for facility relocation and reimbursement
- Draft documents and applications on issues related to: CEQA/NEPA compliance, special district formation, annexations, and Local Agency Formation Commission law
- Assist in the formation of the Cuyama Basin Water District and Shandon-San Juan Water District and the attempted formation of the Paso Robles Basin Water District and, including LAFCo compliance and initial financing

- Draft appellate briefs (both as appellant and respondent and as amicus curiae to the California Supreme Court) on matters related to summary judgment, breach of a land use agreement and oil and gas lease, attorneys' fees, and interpretation of Proposition 218 and Proposition 26 in *City of San Buenaventura v. United Water Conservation District*
- Provide litigation support, including drafting of demurrers, motions for summary judgment and trial briefs, attorneys' fee motions, motions in limine, requests for judicial notice, and other pleadings and conducting and responding to discovery, for trials concerning, among other things, the Antelope Valley Groundwater Adjudication, contract disputes (including disputes over contractual rights to Kern River water), CEQA, public works contracting disputes and eminent domain
- Attend board meetings as district counsel and oversee Proposition 218 hearings.

## **EDUCATION**

- 1991 B.A. HISTORY – CALIFORNIA STATE UNIVERSITY, FRESNO
- 1995 JURIS DOCTORATE – SAN JOAQUIN COLLEGE OF LAW, FRESNO

## **ADMITTED**

- 1995 State Bar of California

## **BUSINESS AND PROFESSIONAL ASSOCIATIONS**

- Board of Directors – Stockdale Christian School, 2006-2010
- Board of Directors – Kern County Society for Human Resources Management (SHRM), 2008-11; President Elect 2012; President 2013; Past President 2014-2015

## **HONORS, AWARDS & ACHIEVEMENTS**

- Honored as “Best Business/Employment Attorney” by the Kern County Bar Association, 2008

Jerry Pearson is a Partner with the Law Offices of Young Wooldridge where he manages the firm’s Business Department. He was born in Torrance, Calif., but grew up in Fresno where he also attended college. He received his bachelor’s degree in history from California State University Fresno and his Juris Doctorate from San Joaquin College of Law, also in Fresno.

Jerry’s practice is limited solely to representing management in labor and employment issues and making sure his clients stay in compliance with the State and Federal labor laws. He has successfully defended employers in wage and hour matters, as well as cases alleging harassment, discrimination, wrongful termination and other labor-related issues before the California State Superior Court, the California Court of Appeals, the United States District Court, the California Labor Commissioner and the Department of Fair Employment and Housing.

In his representation of employers, Jerry has also drafted and helped implement “Return to Work/Interactive Process” programs, which help employers determine if reasonable accommodations exist for an employee’s return to work from injury or disability leave. He also regularly authors employee handbooks for employers, both large and small. Jerry prides himself on getting to know his clients and their businesses before he represents them, so that he can provide optimal legal counsel that is tailored to the specific client and need. His clients include approximately 30 special districts throughout California, as well many private employers including Jess Smith & Sons Cotton, one of the world’s largest cotton producers; Ensign United States Drilling, Inc., one of the world’s largest oil drilling entities; Seven Oaks Country Club; and the full-service construction firm of the S.C. Anderson Family of Companies. Prior to becoming a partner at Young Wooldridge, Jerry was a deputy district attorney with the Kern County District Attorney’s Office where he prosecuted juvenile gang crimes. During his career he has litigated over 200 cases to verdict.

**FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 7B**

**DATE:** October 30, 2017

**TO:** Board of Directors

**SUBJECT:** Brown Act, Rosenberg's Rules of Order and Other Important Information

**SUMMARY**

Clerk of the Board for Ventura County Board of Supervisors Brian Palmer will present an overview of the Brown Act, Rosenberg's Rules of Order and other important information and guidelines for public meetings.

**RECOMMENDED ACTION**

Participate in presentation

**BACKGROUND**

During the July 26 Board of Directors meeting, Chair Long suggested that interim Executive Director reach out to Brian Palmer, clerk of the board for the Ventura County Board of Supervisors, to invite him to make a presentation to the FPB GSA Board members regarding the Brown Act, Robert's Rules of Order and other pertinent information regarding public meeting requirements and guidelines for orders of business of the Board.

**FISCAL IMPACT**

There is no fiscal impact for this information item





# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

### About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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### ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



## TABLE OF CONTENTS

About the Author .....	ii
Introduction .....	2
Establishing a Quorum.....	2
The Role of the Chair.....	2
The Basic Format for an Agenda Item Discussion .....	2
Motions in General.....	3
The Three Basic Motions.....	3
Multiple Motions Before the Body.....	4
To Debate or Not to Debate.....	4
Majority and Super-Majority Votes .....	5
Counting Votes.....	5
The Motion to Reconsider.....	6
Courtesy and Decorum .....	7
Special Notes About Public Input .....	7

## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

**First**, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

**Second**, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

**Third**, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

**Fourth**, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

**Fifth**, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

**Sixth**, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

**Seventh**, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

**Eighth**, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

**Ninth**, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

**Tenth**, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

## Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . .”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be

as follows:

**First**, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

**Third**, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

## Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

## Counting Votes

The matter of counting votes starts simple, but can become complicated.


Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in



California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?*

*Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

## The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.



## Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

**Order.** The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

## Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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Government Code - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57550] ( Title 5 added by Stats. 1949, Ch. 81. )

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] ( Division 2 added by Stats. 1949, Ch. 81. )

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] ( Part 1 added by Stats. 1949, Ch. 81. )

CHAPTER 9. Meetings [54950 - 54963] ( Chapter 9 added by Stats. 1953, Ch. 1588. )

54950.

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(Added by Stats. 1953, Ch. 1588.)

54950.5.

This chapter shall be known as the Ralph M. Brown Act.

(Added by Stats. 1961, Ch. 115.)

54951.

As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

(Amended by Stats. 1959, Ch. 1417.)

54952.

As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of

February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

(Amended by Stats. 2002, Ch. 1073, Sec. 2. Effective January 1, 2003.)

#### 54952.1.

Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

(Amended by Stats. 1994, Ch. 32, Sec. 2. Effective March 30, 1994. Operative April 1, 1994, by Sec. 23 of Ch. 32.)

#### 54952.2.

(a) As used in this chapter, "meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

(b) (1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

(2) Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a

meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person that do not violate subdivision (b).

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the

legislative body who are not members of the standing committee attend only as observers.

(Amended by Stats. 2008, Ch. 63, Sec. 3. Effective January 1, 2009.)

54952.3.

(a) A legislative body that has convened a meeting and whose membership constitutes a quorum of any other legislative body may convene a meeting of that other legislative body, simultaneously or in serial order, only if a clerk or a member of the convened legislative body verbally announces, prior to convening any simultaneous or serial order meeting of that subsequent legislative body, the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the simultaneous or serial meeting of the subsequent legislative body and identifies that the compensation or stipend shall be provided as a result of convening a meeting for which each member is entitled to collect compensation or a stipend. However, the clerk or member of the legislative body shall not be required to announce the amount of compensation if the amount of compensation is prescribed in statute and no additional compensation has been authorized by a local agency.

(b) For purposes of this section, compensation and stipend shall not include amounts reimbursed for actual and necessary expenses incurred by a member in the performance of the member's official duties, including, but not limited to, reimbursement of expenses relating to travel, meals, and lodging.

(Added by Stats. 2011, Ch. 91, Sec. 1. Effective January 1, 2012.)

54952.6.

As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

(Added by Stats. 1961, Ch. 1671.)

54952.7.

A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

(Amended by Stats. 1993, Ch. 1138, Sec. 7. Effective January 1, 1994. Operative April 1, 1994, by Sec. 12 of Ch. 1138.)

54953.

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction,



except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), when a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and that number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions

Code, and any advisory committee to a county sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(4) This subdivision shall remain in effect only until January 1, 2018.

(Amended by Stats. 2016, Ch. 175, Sec. 1. Effective January 1, 2017.)

54953.1.

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

(Added by Stats. 1979, Ch. 950.)

54953.2.

All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(Added by Stats. 2002, Ch. 300, Sec. 5. Effective January 1, 2003.)

54953.3.

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the

persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Amended by Stats. 1981, Ch. 968, Sec. 28.)

54953.5.

(a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the local agency.

(Amended by Stats. 2009, Ch. 88, Sec. 57. Effective January 1, 2010.)

54953.6.

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Amended by Stats. 1994, Ch. 32, Sec. 6. Effective March 30, 1994. Operative April 1, 1994, by Sec. 23 of Ch. 32.)

54953.7.

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

(Added by Stats. 1981, Ch. 968, Sec. 29.)

54954.

(a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district, except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of an applicant for the position of the superintendent of the district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

(Amended by Stats. 2004, Ch. 257, Sec. 1. Effective January 1, 2005.)

54954.1.

Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

(Amended by Stats. 2002, Ch. 300, Sec. 6. Effective January 1, 2003.)

54954.2.

(a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.



(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(Amended by Stats. 2016, Ch. 265, Sec. 1. Effective January 1, 2017.)

54954.3.

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the

item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) (1) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(2) Notwithstanding paragraph (1), when the legislative body of a local agency limits time for public comment, the legislative body of a local agency shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency.

(3) Paragraph (2) shall not apply if the legislative body of a local agency utilizes simultaneous translation equipment in a manner that allows the legislative body of a local agency to hear the translated public testimony simultaneously.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(Amended by Stats. 2016, Ch. 507, Sec. 1. Effective January 1, 2017.)

54954.4.

(a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally

incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

(Added by Stats. 1991, Ch. 238, Sec. 1.)

54954.5.

For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

#### LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

#### CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee

may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

#### CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

#### CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to paragraphs (2) to (5), inclusive, of subdivision (e) of Section 54956.9.)

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

#### LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

#### THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

#### PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

#### PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

#### PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

#### PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

#### CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

#### CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

#### REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

#### HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

#### CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

#### CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

#### AUDIT BY CALIFORNIA STATE AUDITOR'S OFFICE

(Amended by Stats. 2012, Ch. 759, Sec. 6.1. Effective January 1, 2013.)

#### 54954.6.

(a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.



(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property or businesses shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners or business owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or the local agency's records pertaining to business ownership, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) In the case of an assessment proposed to be levied on property, the estimated amount of the assessment per parcel. In the case of an assessment proposed to be levied on businesses, the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to calculate the amount of assessment to be levied against each business. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

(Amended by Stats. 2011, Ch. 382, Sec. 3.5. Effective January 1, 2012.)

54955.

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

(Amended by Stats. 1959, Ch. 647.)

54955.1.

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(Added by Stats. 1965, Ch. 469.)

54956.

(a) A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency's Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

(b) Notwithstanding any other law, a legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined in subdivision (d) of Section 3511.1. However, this subdivision does not apply to a local agency calling a special meeting to discuss the local agency's budget.

(c) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(Amended by Stats. 2011, Ch. 692, Sec. 9. Effective January 1, 2012.)

54956.5.

(a) For purposes of this section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Amended by Stats. 2002, Ch. 175, Sec. 2. Effective January 1, 2003.)

54956.6.

No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

(Added by Stats. 1980, Ch. 1284.)

54956.7.

Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

(Added by Stats. 1982, Ch. 298, Sec. 1.)

54956.75.

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a legislative body of a local agency meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

(Added by Stats. 2004, Ch. 576, Sec. 4. Effective January 1, 2005.)

54956.8.

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

(Amended by Stats. 1998, Ch. 260, Sec. 3. Effective January 1, 1999.)

54956.81.

Notwithstanding any other provision of this chapter, a legislative body of a local agency that invests pension funds may hold a closed session to consider the purchase or sale of particular, specific pension fund investments. All investment transaction decisions made during the closed session shall be made by rollcall vote entered into the minutes of the closed session as provided in subdivision (a) of Section 54957.2.

(Added by Stats. 2004, Ch. 533, Sec. 20. Effective January 1, 2005.)

54956.86.

Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

(Added by Stats. 1996, Ch. 182, Sec. 2. Effective January 1, 1997.)

54956.87.

(a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulas or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.



(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (f), shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) Notwithstanding any other provision of law, the governing board of a health plan may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations by the health plan with providers of health care services concerning all matters related to rates of payment. The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Managed Health Care in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(f) For purposes of this section, "health plan trade secret" means a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that also meets both of the following criteria:

(1) The secrecy of the information is necessary for the health plan to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.

(2) Premature disclosure of the trade secret would create a substantial probability of depriving the health plan of a substantial economic benefit or opportunity.

(Amended by Stats. 2015, Ch. 190, Sec. 65. Effective January 1, 2016.)

54956.9.

(a) Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

(b) For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

(c) For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(d) For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(1) Litigation, to which the local agency is a party, has been initiated formally.

(2) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(3) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (2).

(4) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

(e) For purposes of paragraphs (2) and (3) of subdivision (d), "existing facts and circumstances" shall consist only of one of the following:

(1) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(2) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(3) The receipt of a claim pursuant to the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code) or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(4) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(5) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(f) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(g) Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the paragraph of subdivision (d) that authorizes the closed session. If the session is closed pursuant to paragraph (1) of subdivision (d), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(h) A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

(Amended by Stats. 2012, Ch. 759, Sec. 7. Effective January 1, 2013.)

54956.95.

(a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

(Added by Stats. 1989, Ch. 882, Sec. 3.)

54956.96.

(a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a member local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that member local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member local agency.

(B) Other members of the legislative body of the local agency present in a closed session of that member local agency.

(2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a).

(Added by Stats. 2004, Ch. 784, Sec. 2. Effective January 1, 2005.)

54957.

(a) This chapter shall not be construed to prevent the legislative body of a local agency from holding closed sessions with the Governor, Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b) (1) Subject to paragraph (2), this chapter shall not be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. This subdivision shall not limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

(Amended by Stats. 2013, Ch. 11, Sec. 1. Effective January 1, 2014.)

54957.1.

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as follows:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by

any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final

and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in subdivision (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement, and reasonably within the scope of, paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(Amended by Stats. 2006, Ch. 538, Sec. 311. Effective January 1, 2007.)



(a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

(Amended by Stats. 1981, Ch. 968, Sec. 31.)

54957.5.

(a) Notwithstanding Section 6255 or any other law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, 6254.22, or 6254.26.

(b) (1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Web site in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.

(c) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). This chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

(Amended by Stats. 2013, Ch. 326, Sec. 1. Effective January 1, 2014.)

54957.6.

(a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

(Amended by Stats. 1998, Ch. 260, Sec. 5. Effective January 1, 1999.)

54957.7.

(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

(Amended by Stats. 1993, Ch. 1137, Sec. 15. Effective January 1, 1994. Operative April 1, 1994, by Sec. 23 of Ch. 1137.)

54957.8.

(a) For purposes of this section, "multijurisdictional law enforcement agency" means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that provides law enforcement services for the parties to the joint powers agreement for the purpose of investigating criminal activity involving drugs; gangs; sex crimes; firearms trafficking or felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft.

(b) Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional law enforcement agency, or an advisory body of a multijurisdictional law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

(Amended by Stats. 2006, Ch. 427, Sec. 1. Effective September 22, 2006.)

54957.9.

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

(Amended by Stats. 1981, Ch. 968, Sec. 34.)

54957.10.

Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

(Added by Stats. 2001, Ch. 45, Sec. 1. Effective January 1, 2002.)

54958.

The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

(Added by Stats. 1953, Ch. 1588.)

54959.

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

(Amended by Stats. 1994, Ch. 32, Sec. 18. Effective March 30, 1994. Operative April 1, 1994, by Sec. 23 of Ch. 32.)

54960.

(a) The district attorney or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing

violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to ongoing actions or threatened future actions of the legislative body, or to determine the applicability of this chapter to past actions of the legislative body, subject to Section 54960.2, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) This section shall not permit discovery of communications that are protected by the attorney-client privilege.

(Amended by Stats. 2012, Ch. 732, Sec. 1. Effective January 1, 2013.)

54960.1.

(a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c) (1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, 54956, and 54956.5.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.



(Amended by Stats. 2002, Ch. 454, Sec. 23. Effective January 1, 2003.)

54960.2.

(a) The district attorney or any interested person may file an action to determine the applicability of this chapter to past actions of the legislative body pursuant to subdivision (a) of Section 54960 only if all of the following conditions are met:

(1) The district attorney or interested person alleging a violation of this chapter first submits a cease and desist letter by postal mail or facsimile transmission to the clerk or secretary of the legislative body being accused of the violation, as designated in the statement pertaining to that public agency on file pursuant to Section 53051, or if the agency does not have a statement on file designating a clerk or a secretary, to the chief executive officer of that agency, clearly describing the past action of the legislative body and nature of the alleged violation.

(2) The cease and desist letter required under paragraph (1) is submitted to the legislative body within nine months of the alleged violation.

(3) The time during which the legislative body may respond to the cease and desist letter pursuant to subdivision (b) has expired and the legislative body has not provided an unconditional commitment pursuant to subdivision (c).

(4) Within 60 days of receipt of the legislative body's response to the cease and desist letter, other than an unconditional commitment pursuant to subdivision (c), or within 60 days of the expiration of the time during which the legislative body may respond to the cease and desist letter pursuant to subdivision (b), whichever is earlier, the party submitting the cease and desist letter shall commence the action pursuant to subdivision (a) of Section 54960 or thereafter be barred from commencing the action.

(b) The legislative body may respond to a cease and desist letter submitted pursuant to subdivision (a) within 30 days of receiving the letter. This subdivision shall not be construed to prevent the legislative body from providing an unconditional commitment pursuant to subdivision (c) at any time after the 30-day period has expired, except that in that event the court shall award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to this section, in accordance with Section 54960.5.

(c) (1) If the legislative body elects to respond to the cease and desist letter with an unconditional commitment to cease, desist from, and not repeat the past action that is alleged to violate this chapter, that response shall be in substantially the following form:

To \_\_\_\_\_:

The [name of legislative body] has received your cease and desist letter dated [date] alleging that the following described past action of the legislative body violates the Ralph M. Brown Act:

[Describe alleged past action, as set forth in the cease and desist letter submitted pursuant to subdivision (a)]

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the [name of legislative body] hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action as described above.

The [name of legislative body] may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to subdivision (a) of Section 54960 of the Government Code. That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Very truly yours,

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[Chairperson or acting chairperson of the legislative body]

(2) An unconditional commitment pursuant to this subdivision shall be approved by the legislative body in open session at a regular or special meeting as a separate item of business, and not on its consent agenda.

(3) An action shall not be commenced to determine the applicability of this chapter to any past action of the legislative body for which the legislative body has provided an unconditional commitment pursuant to this subdivision. During any action seeking a judicial determination regarding the applicability of this chapter to any past action of the legislative body pursuant to subdivision (a), if the court determines that the legislative body has provided an unconditional commitment pursuant to this subdivision, the action shall be dismissed with prejudice. Nothing in this subdivision shall be construed to modify or limit the existing ability of the district attorney or any interested person to commence an action to determine the applicability of this chapter to ongoing actions or threatened future actions of the legislative body.

(4) Except as provided in subdivision (d), the fact that a legislative body provides an unconditional commitment shall not be construed or admissible as evidence of a violation of this chapter.

(d) If the legislative body provides an unconditional commitment as set forth in subdivision (c), the legislative body shall not thereafter take or engage in the challenged action described in the cease and desist letter, except as provided in subdivision (e). Violation of this subdivision shall constitute an independent violation of this chapter, without regard to whether the challenged action would otherwise violate this chapter. An action alleging past violation or threatened future violation of this subdivision may be brought pursuant to subdivision (a) of Section 54960, without regard to the procedural requirements of this section.

(e) The legislative body may resolve to rescind an unconditional commitment made pursuant to subdivision (c) by a majority vote of its membership taken in open session at a regular meeting as a separate item of business not on its consent agenda, and noticed on its posted agenda as "Rescission of Brown Act Commitment," provided that not less than 30 days prior to such regular meeting, the legislative body provides written notice of its intent to consider the rescission to each person to whom the unconditional commitment was made, and to the district attorney. Upon rescission, the district attorney or any interested person may commence an action pursuant to subdivision (a) of Section 54960. An action under this subdivision may be brought pursuant to subdivision (a) of Section 54960, without regard to the procedural requirements of this section.

(Added by Stats. 2012, Ch. 732, Sec. 2. Effective January 1, 2013.)

54960.5.

A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960, 54960.1, or 54960.2 where it is found that a legislative body of the local agency has violated this chapter. Additionally, when an action brought pursuant to Section 54960.2 is dismissed with prejudice because a legislative body has provided an unconditional commitment pursuant to paragraph (1) of subdivision (c) of that section at any time after the 30-day period for making such a commitment has expired, the court shall award court costs and reasonable attorney fees to the plaintiff if the filing of that action caused the legislative body to issue the unconditional commitment. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

(Amended by Stats. 2012, Ch. 732, Sec. 3. Effective January 1, 2013.)

54961.

(a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

(Amended by Stats. 2007, Ch. 568, Sec. 35. Effective January 1, 2008.)

54962.

Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code, or by Sections 37606, 37606.1, and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

(Amended by Stats. 2006, Ch. 157, Sec. 2. Effective January 1, 2007.)

54963.

(a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grandjury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.

(Added by Stats. 2002, Ch. 1119, Sec. 1. Effective January 1, 2003.)

**Fillmore and Piru Basins Groundwater Sustainability Agency  
Board of Directors Meeting**

September 18, 2017 - 6:00 p.m.

City of Fillmore City Hall, City Council Chambers  
250 Central Avenue, Fillmore, CA 93015

**MINUTES**

**Directors in Attendance**

Director Gordon Kimball  
Director Kelly Long  
Director Ed McFadden  
Director Candice Meneghin  
Director Glen Pace

**Directors Absent**

Director Carrie Broggie

**Staff Present**

Kris Sofley, interim executive director

**Public Present**

Tony Morgan, UWCD  
Rachel Kimball Laenen, Fillmore and Piru Pumpers

**1. Call to Order 6:01p.m.**

Director Long called the meeting to order and led the group in the pledge of allegiance.

**2. Pledge of Allegiance**

**3. Public Comments**

Director Long asked if any members of the public wanted to address the Board, no public comments were offered.

**4. Approval of Agenda**

**Motion**

Motion to approve the agenda as is, Director McFadden; Second, Director Meneghin.  
Voice vote: five ayes (Kimball, Long, McFadden, Meneghin, Pace); none opposed; one absent (Broggie). Motion carries 5-0-1.

**5. Director Announcements/Board Communications**

Director Meneghin reported that she was attending the Raparian Summit on October 17 in Las Vegas and would be presenting a case study on the Santa Clara River. Director Long asked Mr. Morgan if anyone had contacted UWCD about available water as she had spoken with someone who had mentioned water availability and Director Long had directed them to contact Mr. Morgan. Mr. Morgan said he would reach out to the individual on behalf of Director Long.

**6. Interim Executive Director Update**

**Information Item**

The Interim Executive Director provided a brief overview regarding research on website design and hosting, and explained how she was using Facebook for online outreach in the interim. She also reported that she was continuing to contact insurance providers, including ACWA's JPIA and CSDA's SDRMA with inquiries about general liability insurance coverage and hoped to have more information at the next board meeting.

**7. Update on Funding Sources**

**Information Item**

Mr. Morgan reported that he was having internal discussion with UWCD regarding in-kind services and had discussed the principals of an agreement with the General Manager. With the GM's approval, Mr. Morgan said he would craft a formal agreement for the two agencies (FPB GSA and UWCD) covering services, personnel and clarifying expectations using in-kind services.

Director Long said that she had great news on the County side, and had drafted a letter for a cash advance of \$51,300 and repayment with interest before June 30, 2018. She added that in accordance with 14.3 of the Joint Powers Authority agreement, the loan would be repaid at prevailing LAIF interest rates. The County's Director of Finance was drafting the agreement and defining the percentage of interest and would then run the agreement through legal and Watershed Protection and would provide a copy for review to Mr. Morgan at UWCD and to the list of other agencies involved. She believed the loan agreement would be before the County Board of Supervisors for approval on September 26. Director Long thanked Martín Hernandez for his help in getting this started.

**8. Discussion of Legal Services**

**Information**

Mr. Morgan reported that, as addressed at the last Board meeting, a draft Request for Proposal (RFP) was included in the agenda packet. He explained that the RFP was a merger of three different RFPs that he repackaged after removing all the fluff and filler. The RFP was also broken out in General Legal Counsel and Special Council requirements.

Director McFadden asked if the list of potential law firms had been targeted. Ms. Sofley said that it was targeted and explained how she was using the list of law firms participating in the ACWA legal issues committee and DWR's list of attorneys, and then eliminated those outside the area of



Ventura, Santa Barbara, Los Angeles and Bakersfield as the travel/time costs for firms outside the area would be prohibitive.

Mr. Morgan said he thought many local firms could be conflicted for General Counsel work due to involvement with municipalities and other water agencies, but that it may not be an issue in the Fillmore and Piru area.

Director Long added that potential conflicts could be addressed as part of the Board's evaluation process.

Director McFadden reminded the Board that this didn't require a high powered lawyer and Mr. Morgan agreed that the GSA didn't require an experienced water lawyer, but rather someone familiar the Brown Act and public agency guidelines.

Director Kimball asked to focus locally by reaching out to lawyers within the Santa Paula or Fillmore Chamber of Commerce.

Mr. Morgan said the deadline for submissions of proposals was October 23 and that at the October 30 Board meeting the Board could evaluate whether to develop an ad hoc committee to review the submissions or outline the process for selection.

Director Long suggested if any Board members know of lawyers interested in being General Counsel, they should give the names to Ms. Sofley. Then the Board can select the top three candidates from the submissions and ask those top choice law firms to make formal presentations to the Board at its November 16 meeting. Director Long was hoping General Counsel could be approved by December.

Director McFadden and Director Meneghin volunteered to be the ad hoc committee reviewing legal services proposals, which they would receive at the October 30 Board meeting. The two of them will notify the board of the top candidates who will be invited to make a presentation to the Board, followed by a 30 minute question and answer period.

Mr. Morgan added that at the end of the November 16 meeting, the Board could make a decision regarding the leading candidate and then open negotiations regarding the terms of the contract, with an eye towards approving the contract and rates at the December 19 Board meeting.

## **9. CONSENT CALENDAR**

### **a. Approval of Minutes**

Motion to approve the Minutes from the Board Meeting of August 28, 2017 and the Special Board Meeting of September 7, 2017, Director McFadden; Second, Director Pace. Roll call vote: five ayes (Kimball, Long, McFadden, Meneghin and Pace); none opposed; one absent (Broggie). Motion carries 5-0-1.

## 10. ACTION ITEMS

### a. Application for General Liability Insurance

#### Motion

Motion to approve an application requesting a quote from the CalAssociation of Nonprofits Insurance Service for General Liability and Directors & Officers coverage for the Fillmore and Piru Basins Groundwater Sustainability Agency, Director McFadden; Second, Director Meneghin. Voice vote: five ayes (Kimball, Long McFadden, Meneghin, and Pace); none opposed; one absent (Broggie). Motion carries 5-0-1.

### b. Approval of Resolution 2017-02 and Adoption of Conflict of Interest Code

#### Motion

Motion to approve and adopt Resolution 2017-02, approving and adopting the draft Conflict of Interest Code on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency, as presented, Director Kimball; Second, Director Pace. Voice vote: five ayes (Kimball, Long, McFadden, Meneghin and Pace); none opposed; one absent (Broggie). Motion carries 5-0-1.

### c. Establishing a Commercial Checking Account for FPBGSA

#### Motion

Director McFadden said that as the Board's Secretary/Treasurer he would be the signatory on the FPB GSA's checking account but suggested that an accounting policy outlining the process for accounting needed to be in place. He said that two signatures should be on record and that a policy for accounting needed to be addressed

Director Kimball said it was a big stumbling block and especially if the GSA was looking to apply as a non-profit 501(c)(3) tax exempt organization. He also mentioned that Fillmore Pumpers had an account with Union Bank in Santa Paula.

The Board decided that more research and information regarding crafting and adopting an accounting policy was required.

### d. Possible Future Action Items

#### Motion

The Board reviewed a number of action items for consideration at future Board meetings:

- Establishing a website for the FPB GSA would be addressed at the October 30 Board meeting;
- Accounting Procedures – Chair and Vice Chair would serve as signatories (Director Pace suggested all three member Directors should be approved for signing) on GSA's checking account; the full Board would approve expenditures and address development of an accounting policy at the October 30 Board meeting;
- Directors Pace and Long thought basic and common language bylaws could be created and either amended or added to as necessary as the GSA grows and Director Pace didn't want to spend a fortune on lawyers to create bylaws. Mr. Morgan said that Russ McLaughlin may have Bylaws for GSA and Director Kimball said he would ask Mr. McLaughlin for copies, if available. Creating basic

bylaws would be revisited at the December 19 Board meeting when hopefully Legal Counsel would be on board;

- Director Long thought November and December were busy times and Mr. Morgan stated that there was time to deal with this in December. Director McFadden suggested a “twofer” meeting in December once Legal Counsel was on board and the GSA had money in the bank. Directors agreed that the meetings should be local and suggested Veteran’s Hall. Director McFadden suggested between the 4<sup>th</sup> and 8<sup>th</sup> of December and Director Kimball and Director Pace thought morning meetings, between 9am and 12noon, would be best. They also suggested running public notice ads in the Santa Paul Times and Fillmore Gazette, as well as asking the Farm Bureau, CoLAB and VCAA to share the meeting dates with their members and promote on their websites, Facebook pages and publications. Discussion of proposed fee schedule based on an actual budget and scheduling Town Hall meetings would be done at the December 19 Board meeting;
- Timeline and schedules for Groundwater Sustainability Plan; dates for Town Hall meeting to review FPB GSA Budgets and fee schedule; and dates for Focus Groups regarding GSA Mapping would all be discussed at one meeting in early December.

Motion to calendar the topics as discussed including outreach and messaging on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency, Director McFadden; Second Director Pace. Voice vote: five ayes (Kimball, Long, McFadden, Meneghin and Pace); none opposed; one absent (Broggie). Motion carries 5-0-1

#### 11. ADJOURNMENT 8:02 p.m.

The Board will adjourn to the next **Regular Board Meeting** on Monday, **October 30, 2017** or call of the Chair.

I certify that the above are a true and correct copy of the minutes of the Board of Directors meeting of September 18, 2017.

Attest: \_\_\_\_\_  
Director Kelly Long, Chair

Attest: \_\_\_\_\_  
Kris Sofley, Interim Executive Director

## **FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 9A**

**DATE:**           **October 30, 2017**

**TO:**               **Board of Directors**

**SUBJECT:**       Ventura County Cash Advance Agreement

### **SUMMARY**

As discussed at the Special Board Meeting of September 7, 2017, the FPBGSA has a few options to pursue for possible funding, one of which Director Long was pursuing with the County of Ventura regarding possible funding in the amount of \$51,300.

### **RECOMMENDED ACTION**

Board to consider approving and signing the Ventura County Cash Advance Agreement.

### **BACKGROUND**

Director Long secured a cash advance loan from the County of Ventura in the amount of \$51,300, to provide proportional funding for the FPBGSA's basic operational start-up costs. The FPBGSA will repay the advance in full, with interest at the prevailing Local Agency Investment Fund (LAIF) rate, by June 30, 2018.

As covered in Article 14 of the Joint Powers of Authority agreement between the County of Ventura, the City of Fillmore and United Water Conservation District,

14.2 For the purpose of funding the expenses and ongoing operations of the Agency, the Board of Directors shall maintain a funding account in connection with the annual budget process. The Board of Directors may fund the Agency as provided in Chapter 8 of SGMA, commencing with section 10730 of the Water Code. As authorized by Government Code Section 6504, the Members may make initial contributions, payments and advances for operating the Agency, all of which shall be repaid to the Members pursuant to, and with accrued interest, as set forth in Section 14.3 herein. The Members agree that the Agency, and not the Members, have the sole responsibility to develop and implement a funding program to fiscally and fully implement the Agency's SMGA compliance efforts and ongoing operations.

14.3 Return of Contributions. In accordance with Government Code section 6512.1, repayment or return to the Members of all or any part of any contributions made by Members and any revenues by the Agency may be directed by the Board of Directors at such time and upon such terms as the Board of Directors may decide; provided that (1) any distributions shall be made in proportion to the contributions paid by each Member to the Agency, and (2) any capital contribution paid by a Member voluntarily, and without obligation to make such capital contribution pursuant to Section 14.2, shall be returned to the contributing Member, together with accrued interest at the annual rate published as the yield of the Local Agency Investment Fund administered by the California State Treasurer, before any

**FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 9A**

**DATE: October 30, 2017**

**Page 2**

other return of contributions to the Members is made. The Agency shall hold title to all funds and property acquired by the Agency during the term of this Agreement.

**FISCAL IMPACT:** The fiscal impact of this agreement is the full loan amount of \$51,300 plus interest at the prevailing Local Agency Investment Fund (LAIF) rate, by June 30, 2018.

Proposed Motion:

“Motion to approve and sign a Cash Advance Agreement with the County of Ventura on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency,”

1<sup>st</sup>: Director \_\_\_\_\_

2<sup>nd</sup>: Director \_\_\_\_\_

Voice/Roll call vote:

Director Broggie:

Director Kimball:

Director Long:

Director McFadden:

Director Meneghin:

Director Pace



BOARD MINUTES  
BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

SUPERVISORS STEVE BENNETT, LINDA PARKS,  
KELLY LONG, PETER C. FOY AND JOHN C. ZARAGOZA  
September 26, 2017 at 8:30 a.m.

BOARD OF SUPERVISORS - Recommendation of Supervisor Long to Approve the Agreement for Cash Advance and Repayment with the Fillmore Piru Basins Groundwater Sustainability Agency (FPBGSA) for an Advance for \$51,300 to the FPBGSA to be Repaid in Full with Interest by June 30, 2018.

- (X) All Board members are present.
- (X) The following documents are submitted to the Board for consideration:  
(X) 1 statement card; Anthony Emmert, United Water Conservation District
- (X) Upon motion of Supervisor Long, seconded by Supervisor Parks, and duly carried, the Board hereby approves recommendations as stated in the Board letter.



By:   
Brian Palmer  
Chief Deputy Clerk of the Board

I hereby certify that the annexed instrument is a true and correct copy of the document which is on file in this office.

Dated: 10/9/17 MICHAEL POWERS  
Clerk of the Board of Supervisors  
County of Ventura, State of California

By:   
Deputy Clerk of the Board



**BOARD OF SUPERVISORS  
COUNTY OF VENTURA**

GOVERNMENT CENTER, HALL OF ADMINISTRATION  
800 SOUTH VICTORIA AVENUE, VENTURA, CALIFORNIA 93009

September 26, 2017

Board of Supervisors County of Ventura  
800 S. Victoria Avenue  
Ventura, CA 93009

**SUBJECT:** Approve the Agreement for Cash Advance and Repayment Between the County of Ventura and the Fillmore and Piru Basins Groundwater Sustainability Agency (FPBGSA) for an Advance of \$51,300 to the FPBGSA to Be Repaid in Full, With Interest, By June 30, 2018.

Dear Board Members:

**RECOMMENDATION:**

Approve the Agreement for Cash Advance and Repayment (Agreement) for the County to advance \$51,300 to the Fillmore and Piru Basins Groundwater Sustainability Agency (FPBGSA or Agency) to provide proportional funding for the FPBGSA's basic operational start-up costs. The FPBGSA will repay the advance in full, with interest at the prevailing Local Agency Investment Fund (LAIF) rate, by June 30, 2018.

**Fiscal Impact:**

\$51,300 Advance from General Fund-Special Accounts and Contributions, to be repaid at the prevailing LAIF rate.

**DISCUSSION:**

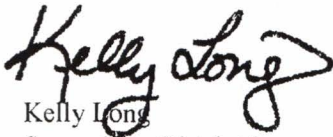
The County, the City of Fillmore and the United Water Conservation District are the members (Members) of the FPBGSA, which is a joint powers authority that was created in June 2017 pursuant to the Joint Exercise of Powers Agreement (Joint Powers Agreement). Section 14.1 of the Joint Powers Agreement requires the FPBGSA Board of Directors to adopt a budget for the ensuing fiscal year within ninety (90) days after the first meeting; the Agency's budget adoption deadline is September 24, 2017. At a special meeting of the FPBGSA's Board of Directors on September 7, 2017, its Board approved the attached budget for the period of July 2017 through December 2017. The attached budget framework is similar to the budget developed by the Upper Ventura River Groundwater Agency with some adjustments for the FPBGSA's situation. The FPBGSA budget relies upon cash advances and other contributions by the Members of the FPBGSA to offset start-up costs of the Agency until such time as the FPBGSA begins collecting fees and generating revenue. Member advances are expressly authorized by section 14.2 of the Joint Powers Agreement and controlling law. At its September 7 meeting, the FPBGSA Board of Directors agreed that

any advance received from the County would be repaid, with interest at the LAIF rate, no later than June 30, 2018. This repayment is authorized by section 14.3 of the Joint Powers Agreement.

I would respectfully request the County Board of Supervisors approve the Agreement for Cash Advance and Repayment authorizing an advance of \$51,300 to the FPBGSA from the General Fund-Special Accounts and Contributions to be repaid to the County by June 30, 2018 with LAIF interest.

This letter has been reviewed by County Counsel, Watershed Protection District, CEO's Office, and Auditor Controller's Office

Respectfully,

A handwritten signature in black ink that reads "Kelly Long". The signature is written in a cursive, flowing style with a long, sweeping tail that extends to the right.

Kelly Long  
Supervisor, District 3

Attachment A – Approved Budget (July-December 2017) for the Fillmore and Piru Basins Groundwater Sustainability Agency

Attachment B – Agreement for Cash Advance and Repayment between the County of Ventura and the Fillmore and Piru Basins Groundwater Sustainability Agency.



FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY  
DRAFT BUDGET (July-Dec 2017)

Approved: 2017-09-07  
6/0 FPBGSA Board of Directors

ATTACHMENT A

7-Sep-17

OPERATING EXPENSES

Administrative Support Services

Item	Description	Qty	Units	Amount	SubTotal	Category Total	In-Kind	Cash
1	Interim Executive Director	6	months	\$ 1,000.00	\$ 6,000.00		1 \$ 6,000.00	\$ -
2	Communications (Facebook/Website/Email)	6	months	\$ 250.00	\$ 1,500.00		\$ -	1 \$ 1,500.00
3	Photocopying/Printing	6	months	\$ 100.00	\$ 600.00		\$ -	1 \$ 600.00
4	Office Expense / General	6	months	\$ 100.00	\$ 600.00		\$ -	1 \$ 600.00
5	Office Expense / Telephone/FAX	6	months	\$ -	\$ -		\$ -	1 \$ -
6	Office Expense / Postage	6	months	\$ 100.00	\$ 600.00		\$ -	1 \$ 600.00
7	Publications/Legal Notices	6	months	\$ 100.00	\$ 600.00		\$ -	1 \$ 600.00
8	Rent & Leases / Facility	6	months	\$ -	\$ -		\$ -	1 \$ -
9	Office Expense / Utilities	6	months	\$ -	\$ -		\$ -	1 \$ -
10	Bank Charges	6	months	\$ 25.00	\$ 150.00		\$ -	1 \$ 150.00
11	Liability Insurance	1	LS	\$ 1,000.00	\$ 1,000.00		\$ -	1 \$ 1,000.00
12				\$ -	\$ -		\$ -	1 \$ -
13				\$ -	\$ -		\$ -	1 \$ -
						\$ 11,050.00	\$ 6,000.00	\$ 5,050.00
							\$ 11,050.00	

Professional Services

Item	Description	Qty	Units	Amount	SubTotal	Category Total	In-Kind	Cash
14	Accounting / Billing	6	months	\$ 1,000.00	\$ 6,000.00		1 \$ 6,000.00	\$ -
15	Legal / BOD meetings & other meetings	39	man-hrs	\$ 250.00	\$ 9,750.00		\$ -	1 \$ 9,750.00
16	Legal / Conflict of Interest preparation	1	LS	\$ 5,000.00	\$ 5,000.00		\$ -	1 \$ 5,000.00
17	Legal / Bylaws preparation	1	LS	\$ 10,000.00	\$ 10,000.00		\$ -	1 \$ 10,000.00
18	Legal / Routine Legal Counsel	60	man-hrs	\$ 250.00	\$ 15,000.00		\$ -	1 \$ 15,000.00
19	Public Outreach / Education	4	ea	\$ 1,000.00	\$ 4,000.00		\$ -	1 \$ 4,000.00
20	Board Participation / Travel (per diem, travel, registration)	1	LS	\$ 2,500.00	\$ 2,500.00		\$ -	1 \$ 2,500.00
21	Grant Writer / Prop 1	1	LS	\$ 15,000.00	\$ 15,000.00		1 \$ 15,000.00	\$ -
22	Grant Writer / other	1	LS	\$ -	\$ -		1 \$ -	\$ -
23	Groundwater Sustainability Plan Development (UWCD Labor)	500	man-hrs	\$ 97.47	\$ 48,735.00		1 \$ 48,735.00	\$ -
24	Groundwater Sustainability Plan Development (misc. expenses)	1	LS	\$ 1,000.00	\$ 1,000.00		1 \$ 1,000.00	\$ -
25				\$ -	\$ -		\$ -	\$ -
26				\$ -	\$ -		\$ -	\$ -
27				\$ -	\$ -		\$ -	\$ -
						\$ 116,985.00	\$ 70,735.00	\$ 46,250.00
							\$ 116,985.00	
<b>OPERATING EXPENSES - TOTAL</b>						<b>\$ 128,035.00</b>	<b>\$ 76,735.00</b>	<b>\$ 51,300.00</b>
							\$ 128,035.00	

REVENUE

Revenue Sources - Options

Item	Description	Qty	Units	Amount	SubTotal	Category Total	In-Kind	Cash
1	Director Entity Assessment	6	ea	\$ 21,339.17	\$ 128,035.00	or		
2	Member Director Entity Assessment	3	ea	\$ 42,678.33	\$ 128,035.00	or		
3	Groundwater Extraction Fee	30,000	AF (6 mths)	\$ 4.27	\$ 128,035.00			
4				\$ -	\$ -			
5				\$ -	\$ -			

REVENUE - TOTAL

\$ 128,035.00

**AGREEMENT FOR CASH ADVANCE AND REPAYMENT BETWEEN  
COUNTY OF VENTURA AND FILLMORE AND  
PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

This Agreement for Cash Advance and Repayment (“Agreement”), dated September 26, 2017, for reference purposes, is made and entered into by and between the COUNTY OF VENTURA, a political subdivision of the State of California (“County”), and the FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY (“FPBGSA”) (collectively, “Parties”).

WHEREAS, County, the City of Fillmore and the United Water Conservation District are the members (“Members”) of the FPBGSA, a joint powers agency created by such Members pursuant to California Government Code section 6500 et seq. (the “Joint Powers Law”) and the Parties’ Joint Exercise Of Powers Agreement effective as of June 1, 2017 (the “Joint Powers Agreement”); and

WHEREAS, as a Member of the FPBGSA, County has, under Government Code section 6504, subdivision (c) and section 14.2 of the Joint Powers Agreement, the authority to provide advances of public funds to the FPBGSA for the purposes set forth in the Joint Powers Agreement; and

WHEREAS, section 14.3 of the Joint Powers Agreement also provides that the FPBGSA has the authority to repay advances made by Members in accordance with the Joint Powers Law and on terms established by the FPBGSA’s Board of Directors; and

WHEREAS, the FPBGSA has requested that County advance to the FPBGSA \$51,300 to provide the FPBGSA with funds to pay certain start-up costs; and

WHEREAS, County’s Board of Supervisors has approved the making of a short-term cash advance in the amount of \$51,300 to the FPBGSA to be repaid in full by the FPBGSA, plus accrued interest thereon;

NOW, THEREFORE, in consideration of their mutual promises, covenants and conditions set forth herein, the sufficiency of which is acknowledged, the Parties agree as follows:

**ARTICLE I  
ADVANCE AND REPAYMENT**

A. Advance. Upon execution of this Agreement by both Parties, County will advance \$51,300 to the FPBGSA under the terms and conditions of this Agreement.

B. Repayment. The FPBGSA shall repay in full to County the amount advanced by County under this Agreement, plus accrued interest at the annual rate published as the yield of the Local Agency Investment Fund administered by the California State Treasurer, as set

forth in section 14.3 of the Joint Powers Agreement.

C. Repayment Date. The repayment shall occur on or before June 30, 2018.

## **ARTICLE II GENERAL PROVISIONS**

A. Term. This Agreement is effective upon execution by both Parties and shall continue in full force and effect through and including June 30, 2018, after which time it shall expire; except that the FPBGSA's obligation to repay the advance, plus accrued interest, and to perform all other obligations under this Agreement (including indemnification obligations) shall survive the termination of this Agreement.

B. Time of Essence. Time is of the essence with respect to the performance of the FPBGSA's obligation to be repay the advancement under this Agreement.

C. Governing Law; Venue. Venue for any action arising out of or related to this Agreement shall only be in Ventura County, California. The rights and obligations of the Parties related to this Agreement shall be governed in all respects by the laws of the State of California.

D. Non-Assignment. The FPBGSA shall not assign or transfer any of its rights, duties, or obligations under this Agreement without the prior express, written consent of County.

E. No Third Party Beneficiaries. Nothing expressed or implied in this Agreement is intended to or shall be construed to confer upon, or to give or grant to, any person or entity, other than County and the FPBGSA, any right, remedy or claim under or by reason of this Agreement or any term, covenant or condition hereof.

F. Indemnification. As set forth in section 15.2 of the Joint Powers Agreement, the FPBGSA agrees to defend, indemnify and hold harmless County and its officers, agents and employees from any liability, claim, suit, action, arbitration proceeding, administrative proceeding, regulatory proceeding, loss, expense or cost of any kind, whether actual alleged or threatened, including attorney fees and costs, court costs, interest, defense costs and expert witness fees, where the same arise out of or are in any way attributable in whole or in part to acts or omissions of the FPBGSA or its employees, officers or agents, or negligent acts or omissions (not including gross negligence or wrongful conduct) of the employees, officers or agents of County while acting within the course and scope of a Member of the FPBGSA in performance of this Agreement and/or the Joint Powers Agreement.

G. Amendments. Any changes to this Agreement requested by any Party shall be effective only if mutually agreed upon in writing by the Parties and approved by the Board of Directors of the FPBGSA and County's Board of Supervisors.

H. Counterparts. This Agreement may be executed in one or more original

counterparts, all of which together constitute one and the same agreement.

I. Entire Agreement. This Agreement constitutes the entire agreement between the FPBGSA and County with respect to the subject matter herein and supersedes all previous negotiations, proposals, commitments, writings and understandings of any nature whatsoever unless expressly included in this Agreement.

FILLMORE AND PIRU BASINS  
GROUNDWATER SUSTAINABILITY AGENCY

By: \_\_\_\_\_

Title: \_\_\_\_\_

COUNTY OF VENTURA



By: John Zucagz  
Title: Chair, Board of Supervisors

ATTEST: MICHAEL POWERS  
Clerk of the Board of Supervisors  
County of Ventura, State of California

By: Tom James  
Deputy Clerk of the Board

**FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 9B**

**DATE: October 30, 2017**  
**TO: Board of Directors**  
**SUBJECT: Website design and hosting through County of Ventura Information Technology Services Department**

**SUMMARY**

As discussed at the September 18, 2017 FPB GSA Board meeting, Director Long believed the County’s IT Services Department could create, build and host a website for the GSA. She reached out to Mr. DeLa Esprielle, who provided an estimate of costs and hosting services.

**RECOMMENDED ACTION**

Board to consider approving the quote from County of Ventura’s Information Technology Services Department and hiring them to design and build a website for the FPB GSA, and to approve contracting with WP Hosting Spot as serve as the website’s host for the next year.

**BACKGROUND**

Director Long recommended reaching out to the county’s IT Services Department to find out what it would charge for creating a new website for the Fillmore and Piru Basin Groundwater Sustainability Agency based on a similar look, feel and functionality to the Upper Ventura River Groundwater Sustainability Agency’s website. The existing site (<https://uvrgroundwater.org/>) design will be used as a guideline to build the new FPB GSA’s website. IT personnel will work with resources at the FPB GSA’s office to obtain content, graphics and a logo for the new website. The new site will be developed utilizing the WordPress content management platform which makes it easy for the business to maintain future content themselves at a significant cost savings. The IT Services Department is also recommending that the new website be hosted at cloud-based website hosting provider wphostingspot.com. IT Services has vetted this cloud hosting provider and has found through its experience that wphostingspot.com provides excellent performance, support, uptime, security, and value.

**FISCAL IMPACT:** The fiscal impact of this agreement is the cost of building the site (\$1,800) plus an annual hosting fee of \$183.60 (based on a monthly rate of \$15.30).

Proposed Motion: “Motion to approve the quote of \$1983.60 and hire Ventura County IT Services Department to build a website and hire wphostingspot.com to host the site for a year on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency as presented,”

1<sup>st</sup>: Director \_\_\_\_\_ 2<sup>nd</sup>: Director \_\_\_\_\_

Voice/Roll call vote: Director Broggie: Director Kimball: Director Long:  
Director McFadden: Director Meneghin: Director Pace

October 12, 2017

Kelly Long  
 Ventura County Supervisor – District 3  
 1203 Flynn Rd, Suite 220  
 Camarillo, CA 93012

Re: Proposal for the creation of the Fillmore and Piru Basin Groundwater Sustainability Agency website

Dear Supervisor Long,

This document is intended to communicate IT Services proposed costs associated with the creation of the Fillmore and Piru Basin Groundwater Sustainability Agency website.

**RODNEY LANTHIER**  
 Assistant Chief Information Officer

**TERRY THEOBALD**  
 Assistant Chief Information Officer  
 Health Care Agency IT Director

**ED ALTHOF**  
 Deputy Chief Information Officer  
 Enterprise Services

**ROBERT CONNAL**  
 Deputy Chief Information Officer  
 Network Services

**BILL DE LA ESPRIELLA**  
 Deputy Chief Information Officer  
 Application Services

**KIM PORTER**  
 Deputy Chief Information Officer  
 Technical Services

**RICK YOUNG**  
 Deputy Chief Information Officer  
 Fiscal Officer

## SCOPE OF SERVICES, COSTS AND PROFESSIONAL FEES

The scope of this project is to create a new website for the Fillmore and Piru Basin Groundwater Sustainability Agency with a similar look and feel as the Upper Ventura River Groundwater Sustainability Agency website. The existing site (<https://uvrgroundwater.org/>) design will be used as a guideline to build the new Fillmore and Piru Basin Groundwater Sustainability Agency website. Any needed taxonomy and content will need to be defined by the Fillmore and Piru Basin Groundwater Sustainability Agency personnel. IT personnel will work with resources at the Fillmore and Piru Basin Groundwater Sustainability Agency's office to obtain content, graphics and a logo for the new website. The new site will be developed utilizing the WordPress content management platform which makes it easy for the business to maintain future content themselves at a significant cost savings. Alternatively, IT Services would be happy to maintain future content, if desired, on a time and material or maintenance contract basis. Lastly, it is proposed that the new website be hosted at cloud-based website hosting provider WPHostingSpot.com. IT Services has vetted this cloud hosting provider and has found through our experience that WPHostingSpot.com provides excellent performance, support, uptime, security, and value.

Following are the one-time web site development costs and the monthly hosting costs for the proposed site:

### One Time Cost Estimates

Description	Hours	Cost
Design and Development	18	\$1,620.00
Quality Assurance and Testing	2	\$180.00
	<b>Total:</b>	<b>\$1,800.00</b>

### Monthly Re-occurring Costs

Description	Frequency	Cost
Web Application Host (WPHostingSpot.com)	Monthly*	\$15.30
*Billed annually	<b>Annual Total:</b>	<b>\$183.60</b>

The cost estimates listed above are based upon the project goals identified in your email request and from our review of the Upper Ventura River Groundwater Sustainability Agency's existing website that you provided as an example. The prices are quoted at a 'not to exceed' cost for the scope identified. If the effort is less than the prices quoted we will charge the actual cost. If new requirements are added during the project that significantly increase the scope of work, further discussions may be necessary to revise this estimate. Additional hours, if needed, have a cost range between \$90.00 per hour and up to \$108.75 per hour depending on the level and type of technical resource required.

## **BENEFITS**

IT Services can provide experienced, professional technology staff for the creation of the Fillmore and Piru Basin Groundwater Sustainability Agency website. IT Services has a proven track record of developing easy to use and highly capable mobile applications and web solutions. We look forward to the opportunity of working with you and the FPBGSA on this website project.

If you have any questions or need any additional information please do not hesitate to contact me.

Thanks,



**Bill De La Espriella**  
Deputy Chief Information Officer  
Information Technology Services Department  
County of Ventura  
800 S. Victoria Ave L1100  
Ventura, CA 93009  
Office: (805) 654-7647  
Email: [bill.delaespriella@ventura.org](mailto:bill.delaespriella@ventura.org)



## **FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 9C**

**DATE: October 30, 2017**

**TO: Board of Directors**

**SUBJECT: Revised Resolution 2017-02 Conflict of Interest Code (Motion)**

### **SUMMARY**

The Joint Exercise of Powers Agreement (“JPA Agreement”) requires that the Agency adopt a local Conflict of Interest (COI) Code pursuant to the schedule and provisions described below. Examples of COIs from other Groundwater Sustainability Agencies were presented for the Board’s review and consideration at the August 28, 2017 Board meeting. At that time, the Board directed the interim executive director to draft a Conflict of Interest Code for the Fillmore and Piru Basins Groundwater Sustainability Agency based on the Conflict of Interest Code adopted by the Mound Basin GSA. Upon submitting the adopted Conflict of Interest Code to the County Board of Supervisors, the COI was rejected due to minor language issues.

Section 2 has been amended as follows:

“The Chair, Vice-Chair, Members of the Board of Directors, Alternate Directors, the Executive Director, Agency General Counsel, and Treasurer of the Agency shall file a Form 700 statement pursuant to State law (Government Code § 87500(k)) with the County of Ventura Board of Supervisors’ Clerk of the Board.”

Attachment C - Disclosure Categories – Category 4 was amended to read:

“A designated employee in this category must report all interests in real property within the jurisdiction of the Agency.” **RECOMMENDED ACTION**

### **RECOMMENDED ACTION**

Approve the Revised Resolution 2017-02 and Adopt the amended Conflict of Interest Code presented with this staff report.

### **BACKGROUND**

Section 8.5 of the JPA Agreement requires the Board of Directors to adopt a local conflict of interest code pursuant to the provisions of the Political Reform Act of 1974 (Government Code sections 81000, et seq.) at the first meeting following the appointment of the Stakeholder Directors.

The Interim Executive Director has revised the COI code (see attachment) based on the COI code approved by Mound Basin GSA and with direction from UWCD legal counsel, as an appropriate COI Code for this Agency.

Additionally, the Board of Directors must file a Form 700 Statement of Economic Interests.



**FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No 9C**

**Date: October 30, 2017**

**Page 2**

**FISCAL SUMMARY**

There was no fiscal impact from this item.

Proposed Motion:

“Motion to approve and adopt the revised Resolution 2017-02 Conflict of Interest Code on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency as presented,”

1<sup>st</sup>: Director \_\_\_\_\_

2<sup>nd</sup>: Director \_\_\_\_\_

Voice/Roll call vote:

Director Broggie:

Director Kimball:

Director Long:

Director McFadden:

Director Meneghin:

Director Pace

**FILLMORE AND PIRU BASINS  
GROUNDWATER SUSTAINABILITY AGENCY**

**AMENDED RESOLUTION 2017-02**

**A RESOLUTION OF THE FILLMORE AND PIRU BASINS  
GROUNDWATER SUSTAINABILITY AGENCY (AGENCY) ADOPTING A  
CONFLICT OF INTEREST CODE**

WHEREAS, the Political Reform Act, Government Code §81000 et seq. requires every state and local government agency to adopt and promulgate a Conflict of Interest Code pursuant to Government Code §87300; and,

WHEREAS, the Fair Political Practices Commission (“FPPC”) has adopted a regulation which contains terms of a standard model Conflict of Interest Code (2 California Code of Regulations §18730), which is attached hereto as Attachment A, and will be amended to conform to amendments in the Political Reform Act after public notice and hearing conducted by the FPPC; and,

WHEREAS, the standard model Conflict of Interest Code will help ensure compliance by the Agency with the Political Reform Act.

NOW, THEREFORE, the Board of Directors of the Fillmore and Piru Basins Groundwater Sustainability Agency does hereby resolve, find, determine and order as follows:

Section 1: The terms of the standard model Conflict of Interest Code adopted pursuant to 2 California Code of Regulations §18730, a copy of which is attached hereto as Attachment A, and any amendments to it duly adopted by the FPPC is hereby adopted and incorporated by reference as the Conflict of Interest Code for the Agency. This standard model Conflict of Interest Code and Attachments B, C, and D to this Resolution, in which members and employees are designated and disclosure categories are set forth and explained, shall constitute the Conflict of Interest Code of the Agency.

Section 2: Employees designated in Attachment D hereto shall file statements of economic interests (Form 700) with the Agency Secretary pursuant to this Resolution. The Chair, Vice-Chair, Members of the Board of Directors, Alternate Directors, the Executive Director, Agency General Counsel, and Treasurer of the Agency shall file a Form 700 statement pursuant to State law (Government Code § 87500(k)) with the County of Ventura Board of Supervisors’ Clerk of the Board. The Fillmore and Piru Basins Groundwater Sustainability Agency Secretary shall be responsible for the retention of a copy of all statements of economic interests and make them available for public inspection and reproduction (Government Code §81008).

Section 3: The Agency shall certify as to the adoption of this Resolution and cause the filing of said Conflict of Interest Code in the manner prescribed by law.

PASSED, APPROVED, AMENDED AND ADOPTED this 30th day of October, 2017.

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Kelly Long, Board Chair

ATTEST:

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Kris Sofley  
Interim Executive Director

**ATTACHMENT A**  
**CONFLICT OF INTEREST**  
**CODE**  
**FILLMORE AND PIRU BASINS GROUNDWATER**  
**SUSTAINABILITY AGENCY**

TITLE 2.  
ADMINISTRATION  
DIVISION 6. FAIR POLITICAL PRACTICES  
COMMISSION CHAPTER 7. CONFLICTS OF  
INTEREST

**ARTICLE 2.**  
**DISCLOSURE**

2 CCR §18730

§18730. Provisions of Conflict of Interest Codes

- (a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Attachments referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section §87300 or the amendment of a conflict of interest code within the meaning of Government Code Section §87307 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections §81000, *et seq.* The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section §87100, and to other state or local laws pertaining to conflicts of interest.
- (b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. of Regs. Sections §18110, *et seq.*), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in Attachment D are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section §87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections §87200, *et seq.*

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code section §87200; and

(C) The filing officer is the same for both agencies.<sup>1</sup>

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in Attachment C specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in Attachment D. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.<sup>2</sup>

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by

the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(E) Reports for military service as defined in the Service member's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to

receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements.

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).

(B) Personal Income Disclosure. When personal income is required to be reported,<sup>5</sup> the statement shall contain:

1. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,<sup>6</sup> the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).



(D) Business Position Disclosure.

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal during Reporting Period.

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

- (A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Government Code Section §89501 shall apply to the prohibitions in this section.

This Section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section §89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$290.

- (A) No member of a state board or commission, and no designated employee of the state or local government agency, shall accept gifts with a total value of more than \$290 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code Section §89503 shall apply to the prohibitions in this Section.

(8.2) Section 8.2. Loans to Public Officials.

- (A) No elected officer of a state or local government agency shall, from this date of his or her election to office through the date that he or she vacates office,

receive a personal loan from any officer, employee, member or consultant of the state or local government agency in which the elected officer holds office over which the elected officer's agency has direction and control.

- (B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
- (C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.
- (D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
- (E) This section shall not apply to the following:
  1. Loans made to the campaign committee of an elected officer or candidate for elective office.
  2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed two hundred fifty dollars (\$250) at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
  - a. The date the loan was made.
  - b. The date the last payment of \$100 or more was made on the loan.

- c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty (\$250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;
- (B) Any real property in which the designated employee has a direct or indirect interest worth one thousand dollars (\$1,000) or more;
- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars \$250 or more in value provided to, received by or

promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$290 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

(10) Section 10. Manner of Disqualification.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of

other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections §81000-§91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section §87100 or §87450 has occurred may be set aside as void pursuant to Government Code Section §91003. A violation of this Code may result in discipline under the Authority's Personnel Rules. Such discipline may include discharge.

## **ENDNOTES**

<sup>1</sup> Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section §81004.

<sup>2</sup> See Government Code Section §81010 and 2 Cal. Code of Regs. Section §18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

<sup>3</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>4</sup> Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

<sup>5</sup> A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

<sup>6</sup> Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Government Code Section §83112. Reference: Sections §87103(e), §87300-§87302, §89501, §89502 and §89503, Government Code.

## **HISTORY**

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14). Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).
9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).

16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).
18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).
19. Editorial correction of subsection (a) (Register 98, No. 47).
20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).
21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).
22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).
23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).
24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).
25. Editorial correction of History 24 (Register 2003, No. 12).
26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).
27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).
28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).
29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).
30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative



Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).

34. Redesignation of portions of subsection (b)(8)(A) as new subsections (b)(8)(B)-(D), amendment of subsections (b)(8.1)-(b)(8.1)(A), redesignation of portions of subsection (b)(8.1)(A) as new subsections (b)(8.1)(B)-(C) and amendment of subsection (b)(9)(E) filed 12-1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 49).

This database is current through 3/10/17 Register 2017, No. 10  
2 CCR § 18730, 2 CA ADC § 18730

## **ATTACHMENT B**

### **CONSULTANTS**

Commission Regulation §18700 defines “consultant” as an individual who, pursuant to a contract with a state or local government agency:

- (A) Makes a governmental decision whether to:
- (i) Approve a rate, rule, or regulation;
  - (ii) Adopt or enforce a law;
  - (iii) Issue, deny, suspend, or revoke any permit license, application, certificate, approval, order, or similar authorization or entitlement;
  - (iv) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
  - (v) Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
  - (vi) Grant agency approval to a plan, design, report, study, or similar item;
  - (vii) Adopt, or grant agency approval of policies, standards, or guidelines for the agency, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the Agency’s Conflict of Interest Code.

#### **Consultant\***

Consultant shall be included in the list of designated employees and shall disclose pursuant to the broadcast disclosure category in the code subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the section. Such written determination shall include a description of the consultant’s duties and, based upon the description, a statement of the extent of disclosure requirements. The Executive Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

**ATTACHMENT C**  
**DISCLOSURE CATEGORIES**

**GENERAL PROVISIONS**

Designated employees or individuals shall disclose their financial interest pursuant to the appropriate disclosure category as indicated. Disclosure categories pertain to investments, real property, business positions and sources of income, including loans, gifts and travel payments from sources located in or doing business within the jurisdiction of the Fillmore and Piru Basins Groundwater Sustainability Agency (“Agency”).

**DISCLOSURE CATEGORIES**

**Category 1:**

A designated employee in this category must report all interests in real property as well as investments, business positions, sources of income, and gifts from any source in, or doing business in, the jurisdiction of the Agency, and all other interests, which are subject to the regulation or supervision of the Agency.

**Category 2:**

A designated employee in this category must report all interests in real property located within the Agency. Investments, business positions in business entities and income, gifts, loans and travel payments, from sources in, or doing business within the Agency which:

1. Engages in the appraisal, acquisition, disposal, development of real property, or rehabilitation or construction of improvements on real property including architects, contractors, and subcontractors.
2. Provides services, supplies, materials, machinery, or equipment of any type utilized by the Agency to which the employee is assigned.
3. Are of the type which is subject to the regulation or supervision of the Agency.

**Category 3:**

A designated employee in this category must report all interests in real property located within the Agency. Investments, business positions in business entities and income, gifts, loans and travel payments from sources in, or doing business within the Agency which:

1. Provide services, supplies, materials, machinery or equipment of any type utilized by designated filers in the Agency.
2. Are of the type which is subject to the regulation or supervision of the Agency.

**Category 4:**

A designated employee in this category must report all interests in real property within the jurisdiction of the Agency.

**ATTACHMENT D**  
**DESIGNATED EMPLOYEES**

<b>POSITIONS TITLES</b>	<b>DISCLOSURE CATEGORY</b>
General Counsel	<b>4</b>
Interim Executive Director	<b>4</b>
Assistant Secretary	<b>1</b>
Consultants (that will make or participate in making governmental decisions on behalf of the Agency)	<b>4*</b>

\*Disclosure Category 1 shall generally apply; however, the Executive Director, after consultation with the Agency General Counsel, shall designate the disclosure category for each consultant subject to this Code. If a consultant is performing duties the same as an “employee” the consultant will be assigned the same reporting category. See Attachment B for the consultant definition.

## **FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 9D**

**DATE: October 30, 2017**

**TO: Board of Directors**

**SUBJECT: Resolution 2017-03 Proposition 1 Groundwater Sustainability Grant Program (Motion)**

### **SUMMARY**

Resolution 2017-03 authorizes the submission of a grant application on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency under the Proposition 1 Groundwater Sustainability Grant Program administered by the Department of Water Resources.

### **RECOMMENDED ACTION**

The Board consider approving and adopting Resolution 2017-03 authorizing the submission of a Prop 1 Sustainable Groundwater Planning Grant Program application on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency.

### **BACKGROUND**

The Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) authorized \$100 million to be available for competitive grants for projects that develop and implement GSPs and projects in accordance with groundwater planning requirements established under Division 6 (commencing with Section 10000) (Water Code Section 79775).

The DWR is administering the Sustainable Groundwater Planning (SGP) Grant Program, using funds authorized by Proposition 1, to encourage sustainable management of groundwater resources that support SGMA.

As UWCD has arranged to fund the hiring of a grant writer to research, draft and submit a Prop 1 SGP grant application on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency, the adoption and approval of the resolution substantiates that the Board of Directors of the Fillmore and Piru Basins Groundwater Sustainability Agency approves:

1. That application be made to the California Department of Water Resources to obtain a grant under the 2017 Sustainable Groundwater Planning Grant Program pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) (Water Code Section 79700 et seq.), and to enter into an agreement to receive a grant for the *Fillmore and Piru Basins Groundwater Sustainability Plan*.
2. The Board Chair, or Designee, of the Fillmore and Piru Basins Groundwater Sustainability Agency is authorized and directed to prepare the necessary data, conduct investigations, file such application, and execute a grant agreement with California Department of Water Resources.

**FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No 9D**

**Date: October 30, 2017**

**Page 2**

**FISCAL SUMMARY**

There is no fiscal impact for this motion.

Proposed Motion:

“Motion to approve and adopt Resolution 2017-03 authorizing the submission of the Prop 1 Grant application on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency as presented,”

1<sup>st</sup>: Director \_\_\_\_\_

2<sup>nd</sup>: Director \_\_\_\_\_

Voice/Roll call vote:

Director Broggie:

Director Kimball:

Director Long:

Director McFadden:

Director Meneghin:

Director Pace

## RESOLUTION 2017-03

### RESOLUTION OF THE BOARD OF DIRECTORS OF THE FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY AUTHORIZING APPLICATION FOR A GRANT UNDER THE 2017 SUSTAINABLE GROUNDWATER PLANNING GRANT PROGRAM

**WHEREAS**, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319, and Assembly Bill 1739, collectively known as the Sustainable Groundwater Management Act (SGMA), which amended the Water Code (Part 2.74 of Division 6 of the Water Code, Sections 10720-10737.8) and provides the framework for sustainable groundwater management planning and implementation; and

**WHEREAS**, SGMA went into effect on January 1, 2015; and

**WHEREAS**, SGMA requires local public agencies and Groundwater Sustainability Agencies (GSAs) to develop and implement Groundwater Sustainability Plans (GSPs) or alternatives to GSPs for designated high and medium priority groundwater basins and subbasins; and

**WHEREAS**, SGMA authorizes a combination of local agencies to form a GSA by entering into a joint powers agreement as authorized by the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the California Government Code); and

**WHEREAS**, the Fillmore and Piru Basins Groundwater Sustainability Agency (FPBGSA) is such a joint powers authority and exercises jurisdiction upon land overlying the entire Fillmore and Piru Basins (designated subbasin numbers 4-4.05 and 4-4.06, respectively by the California Department of Water Resources' CASGEM groundwater basin system); and

**WHEREAS**, the Fillmore and Piru Basins are designated as medium- and high-priority basins, respectively and are required to be managed by a GSP or coordinated GSPs by January 31, 2022; and

**WHEREAS**, the FPBGSA is seeking funding to develop a GSP for the Fillmore and Piru Basins; and

**WHEREAS**, The Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) authorized \$100 million to be available for competitive grants for projects that develop and implement GSPs and projects in accordance with groundwater planning requirements established under Division 6 (commencing with Section 10000) (Water Code Section 79775); and

**WHEREAS**, DWR is administering the Sustainable Groundwater Planning Grant Program, using funds authorized by Proposition 1, to encourage sustainable management of groundwater resources that support SGMA; and

**NOW THEREFORE**, be it resolved by the Board of Directors of the Fillmore and Piru Basins Groundwater Sustainability Agency as follows:

1. That application be made to the California Department of Water Resources to obtain a grant under the 2017 Sustainable Groundwater Planning Grant Program pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) (Water Code Section 79700 et seq.), and to enter into an agreement to receive a grant for the *Fillmore and Piru Basins Groundwater Sustainability Plan*.
2. The Board Chair, or Designee, of the Fillmore and Piru Basins Groundwater Sustainability Agency is hereby authorized and directed to prepare the necessary data, conduct investigations, file such application, and execute a grant agreement with California Department of Water Resources.

**ADOPTED, SIGNED and APPROVED this October 30, 2017.**

\_\_\_\_\_  
Director Kelly Long, Chair

\_\_\_\_\_ (ATTEST)  
Kris Sofley, interim Executive Director



## **FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 9E**

**DATE: October 30, 2017**

**TO: Board of Directors**

**SUBJECT: Cost Reimbursement Agreement with United Water Conservation District**

### **SUMMARY**

As discussed at the Special Board Meeting of September 7, 2017, the FPBGSA has a few options to pursue for possible funding, one of which, provision of “in-kind” services to offset out of pocket expenses, Mr. Morgan was confirming with the United Water Conservation District (UWCD). As part of this in-kind service/cost reimbursement agreement, UWCD would hire the District’s grant writer to complete the Prop 1 Grant funding application on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency.

### **RECOMMENDED ACTION**

Board to consider approving and signing the Cost Reimbursement Agreement with United Water Conservation District agreeing to reimburse UWCD for in-kind services, plus interest at a prevailing interest rate established by Local Agency Investment Fund (LAIF).

### **BACKGROUND**

Mr. Morgan approached the Board of United Water Conservation District requesting the establishment of an “in-kind” services arrangement between the District and the FPBGSA, which would allow for the District to help the GSA with personnel and other services during its development stage, with the GSA agreeing to reimburse the District for its expense outlay related to these services with interest at the prevailing Local Agency Investment Fund (LAIF) rate, by June 30, 2018.

As covered in Article 14 of the Joint Powers of Authority agreement between the County of Ventura, the City of Fillmore and United Water Conservation District,

14.2 For the purpose of funding the expenses and ongoing operations of the Agency, the Board of Directors shall maintain a funding account in connection with the annual budget process. The Board of Directors may fund the Agency as provided in Chapter 8 of SGMA, commencing with section 10730 of the Water Code. As authorized by Government Code Section 6504, the Members may make initial contributions, payments and advances for operating the Agency, all of which shall be repaid to the Members pursuant to, and with accrued interest, as set forth in Section 14.3 herein. The Members agree that the Agency, and not the Members, have the sole responsibility to develop and implement a funding program to fiscally and fully implement the Agency’s SMGA compliance efforts and ongoing operations.

14.3 Return of Contributions. In accordance with Government Code section 6512.1, repayment or return to the Members of all or any part of any contributions made by Members and any revenues by the Agency may be directed by the Board of Directors at such time and upon such terms as the Board of Directors may decide; provided that (1) any distributions shall be made in proportion to the contributions paid by each Member to the Agency, and (2)

**FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 9E**

**DATE: October 30, 2017**

**Page 2**

any capital contribution paid by a Member voluntarily, and without obligation to make such capital contribution pursuant to Section 14.2, shall be returned to the contributing Member, together with accrued interest at the annual rate published as the yield of the Local Agency Investment Fund administered by the California State Treasurer, before any other return of contributions to the Members is made. The Agency shall hold title to all funds and property acquired by the Agency during the term of this Agreement.

**FISCAL IMPACT:** The fiscal impact of this agreement currently is the \$28,000 contracted to hire the grant writer plus interest at the prevailing Local Agency Investment Fund (LAIF) rate, reimbursable to The District by June 30, 2018.

Proposed Motion:

“Motion to approve and sign a Cost Reimbursement Agreement with the United Water Conservation District on behalf of the Fillmore and Piru Basins Groundwater Sustainability Agency,”

1<sup>st</sup>: Director \_\_\_\_\_

2<sup>nd</sup>: Director \_\_\_\_\_

Voice/Roll call vote:

Director Broggie:

Director Kimball:

Director Long:

Director McFadden:

Director Meneghin:

Director Pace

**FILLMORE AND PIRU BASINS GROUNDWATER SUSTAINABILITY AGENCY**

**Item No. 9F**  
**DATE: October 30, 2017**  
**TO: Board of Directors**  
**SUBJECT: Future Workshop and Meeting Dates**

**SUMMARY**

As discussed during previous Board of Directors meeting, the Board will review potential scheduling dates for workshops and meetings proposed over the next several months and direct the interim Executive Director as to how to schedule and publicize these events.

**RECOMMENDED ACTION**

1. Board to approve a Special Board Meeting to review and approve the Proposition 1 DWR Grant application prior to its submission deadline date of November 13. (Dates most likely for consideration are Monday, November 6, through Thursday, November 9)
2. At the recommendation of the Ad Hoc committee reviewing proposals for legal services, select the top legal firms considered on or before November 9 and invite them to present their proposals formally to the board and accept questions and answers from the Board at the next Regular Board Meeting scheduled for Thursday, November 16 at 6pm.
3. Review availability of Veteran’s Hall in Fillmore for a series of Budget Workshops, educating the public as to potential rates/fees and the estimated operating expenses of the FPB GSA in developing a Groundwater Sustainability Plan for the Fillmore and Piru Basins. (Dates for consideration span November, December and January)
4. Review availability of Veteran’s Hall in Fillmore for a series of Basin Boundary Modification Workshops, incorporating public education and outreach in working towards the GSA’s Basin Boundary Modification submission due to the Department of Water Resources in March 2018.

**FISCAL IMPACT**

No fiscal impact at this time

Proposed Motion: “Motion to direct interim Executive Director to reserve meeting space at Veteran’s Hall in Fillmore on the dates and for the purposes discussed,”			
1 <sup>st</sup> : Director _____		2 <sup>nd</sup> : Director _____	
Voice/Roll call vote:			
Director Broggie:	Director Kimball:	Director Long:	Director McFadden:
Director Meneghin:	Director Pace		