

**REGULAR MEETING AGENDA**  
**Rohner Community Recreation and Park District (RCRPD) Board**  
**Wednesday, September 5, 2018 at 2:30 P.M.**  
**621 11<sup>TH</sup> Street at Fortuna City Hall**

We May Disagree, But We Will Be Respectful of One Another  
 All Comments Will Be Directed to the Issue at Hand, and Addressed to the Board  
 Personal Attacks are Unacceptable  
***The Board May Take Action on any Item on this Agenda.***

**I. CALL TO ORDER / FLAG SALUTE 2:30 PM**

**ROLL CALL**

<b>Board</b>	<b>Staff</b>
Board Member Shawn Coleman	Interim City Manager Merritt Perry
Board Member Becky Giacomini	Deputy City Clerk Buffy Gray
Board Member Denise Marshall	Parks & Recreation Director Cameron Mull
Vice-Chair Jacques Debets	Finance Director Aaron Felmlee
Chair Abe Stevens	

**II. ORAL COMMENTS FROM THE PUBLIC**

*Members of the Public may be heard at this time on any item within the subject matter jurisdiction of the City that is not on the Public Meeting Agenda. It is the practice of this Board to hold public comment for every item of business on the agenda at the time that item is heard. If a speaker cannot stay for a particular item of business, they may be heard during this time. Comments concerning the Consent Calendar (if applicable) may also be heard at this time. Speakers addressing the Board will be limited to 3 minutes per speaker. Be advised that, by law, the Board can only deliberate or take action on items that are included on the agenda.*

**III. CONSENT CALENDAR**

1. RCRPD Minutes – August 8, 2018 (Special Meeting)

**IV. RCRPD BUSINESS**

- A. Adopt Bylaws for the Rohner Community Recreation & Park District (RCRPD) Board
- B. Appointment of a Treasurer for the RCRPD Board
- C. Approval of FY2017/2018 RCRPD Funds for Newburg Park Ballfield Lights Purchase

**V. DISCUSSION**

1. Update on Proposition 68 *(No Action required)*
2. Board Name Change *(No Action Required)*
3. Discussion on Feasibility Studies for a Potential Pool *(No Action Required)*

**VI. FUTURE AGENDA ITEMS**

*At this time, members of the Board may consider or request items to be placed on a future agenda through a consensus of the majority.*

**VII. ADJOURN**

Pursuant to Government Code Section 54957.5, any non-confidential documents or writings that the City distributes, less than 72 hours before a regular meeting, to all or a majority of the legislative body's members must be made available to members of the public at the same time as the distribution. Documents and information related to the agenda topics are available for review at City Hall, 621 11<sup>th</sup> Street, between the hours of 8:00 AM to 5:00 PM. Members of the public are invited to come to the meeting and comment. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at 725-7600. Notification prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Buffy Gray  
Deputy City Clerk

*Draft SPECIAL MEETING MINUTES  
Rohner Community Recreation and Park District (RCRPD) Board  
Wednesday, August 8, 2018 at 4:00 P.M.  
621 11<sup>TH</sup> Street at Fortuna City Hall*

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We May Disagree, But We Will Be Respectful of One Another  
All Comments Will Be Directed to the Issue at Hand, and Addressed to the Board  
Personal Attacks are Unacceptable  
***The Board May Take Action on any Item on this Agenda.***

**I. CALL TO ORDER:**

Chair Stevens called the Public Session to order at 4:00 p.m.

**FLAG SALUTE**

Board Member Coleman led the flag salute.

**ROLL CALL**

<b>Board</b>	<b>Staff</b>
Board Member Shawn Coleman	Interim City Manager Merritt Perry
Board Member Becky Giacomini	Deputy City Clerk Buffy Gray
Board Member Denise Marshall	Finance Director Aaron Felmlee
Vice-Chair Jacques Debets <i>Absent</i>	
Chair Abe Stevens	

**II. ORAL COMMENTS FROM THE PUBLIC**

There being no comments from the public, Chair Stevens closed the public comment section.

**III. CONSENT CALENDAR**

1. RCRPD Minutes – July 11, 2018 (Regular Meeting)

**BOARD ACTION:**

Board Member Marshall moved, seconded by Board Member Coleman to approve the Consent Calendar.

AYES: Board Members Coleman, Giacomini, Marshall, Chair Stevens

NOES: None

ABSENT: Vice-Chair Debets

ABSTAIN: None

Motion Carried 4-0

**IV. DISCUSSION**

**A. Bylaw Review from the Subcommittee**

Board Members, Staff and Humboldt LAFCo Representative Colette Metz discussed the bylaws drafted by the subcommittee.

**PUBLIC COMMENT:**

There being no comments from the public, Chair Stevens closed the public comment section.

**B. Update on Proposition 68 Findings**

The Board received a written report from the Parks and Recreation Director Cameron Mull and an oral report from Interim City Manager Merritt Perry.

**PUBLIC COMMENT:**

There being no comments from the public, Chair Stevens closed the public comment section.

**C. Discussion related to Meeting Times, Dates, and location for the Rohner Community Recreation & Park District Board Meetings**

**PUBLIC COMMENT:**

There being no comments from the public, Chair Stevens closed the public comment section.

**BOARD ACTION:**

Board Member Coleman moved, seconded by Board Member Marshall to set the Regular Meeting dates to the first Wednesday of each month at 2:30 p.m.

AYES: Board Members Coleman, Giacomini, Marshall, Chair Stevens

NOES: None

ABSENT: Vice-Chair Debets

ABSTAIN: None

Motion Carried 4-0

**D. Meeting Minutes by the City Clerk**

Staff discussed the type of minutes the Clerk takes at meetings are action minutes.

**PUBLIC COMMENT:**

There being no comments from the public, Chair Stevens closed the public comment section.

**E. Long & Short Term Objectives**

- Raising Funds
- Public Outreach
- Creating a website

**PUBLIC COMMENT:**

There being no comments from the public, Chair Stevens closed the public comment section.

**F. Budget Overview & Administration of Funds**

Finance Director Aaron Felmlee gave an overview on funds.

Humboldt LAFCo representative Colette Metz spoke on funding for the Board.

**PUBLIC COMMENT:**

There being no comments from the public, Chair Stevens closed the public comment section.

**G. Board Name Change**

The Board discussed changing the name of the Rohner Community Recreation and Park District Board.

**PUBLIC COMMENT:**

There being no comments from the public, Chair Stevens closed the public comment section.

**V. FUTURE AGENDA ITEMS**

The Board asked that the following items be placed on a future agenda.

- Feasibility Study
- Update on Prop. 68
- Appointment of Treasurer
- Board Name Change

**VI. ADJOURN**

Board Member Giacomini moved, seconded by Board Member Coleman to adjourn at 5:23 p.m.  
Motion Carried 4-0

Respectfully Submitted by,  
Buffy Gray  
Deputy City Clerk

**STAFF REPORT**  
***Rohner Community Recreation and Park District Board***  
***Business Agenda Item***

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**DATE:** September 5, 2018

**TO:** Rohner Community Recreation and Park District (RCRPD) Board

**FROM:** Cameron Mull, Director of Parks & Recreation

**THRU:** Merritt Perry, Interim City Manager

**SUBJECT: Adopt Bylaws for the RCRPD Board**

**STAFF RECOMMENDATION:**

Staff recommends that RCRPD approve their bylaws (draft originally submitted on 8/8/2018) with the suggested revisions incorporated from the last meeting on August 8, 2018.

**EXECUTIVE SUMMARY:**

After review of the draft bylaws submitted by Chair Abe Stevens on 8/8/18, the Board discussed changes with recommendations from City staff and Colette Metz of Humboldt LAFCO. The City's Deputy City Clerk made requested revisions to the bylaws based on the discussed changes.

**FISCAL IMPACT:**

None.

**RECOMMENDED ACTION:**

Receive staff recommendation and review any questions with staff

- Open Public Comment
- Close Public Comment
- Approve the revised Rohner Community Recreation and Park District bylaws. Voice vote.

**ATTACHMENTS:**

- Original draft bylaws (*from 08/08/2018*)
- Revised bylaws, completed by staff with discussed changes

***DRAFT 08/08/2018***

## **Rohner Community Recreation and Park District Bylaws**

### **Name of the District:**

The name of the District is currently “Rohner Community Recreation and Park District” and referred to herein as the “District”. The District Board is authorized to change the name of the District with the approval of a majority of the Board.

### **Mission:**

The mission of the Rohner Community Recreation and Park District is to offer and advocate for recreational opportunities for residents within the District's region. Aquatic recreational activities are the District's first, but not exclusive, priority.

### **Authority:**

The District Board is authorized to take action in support of the Mission. Such authority may include: To promote, organize, establish, own, maintain and operate systems of recreation and recreation centers. The Board may cooperate with city, county, state or federal agencies in support of the Mission. The Board is authorized to raise and disperse funds, and hire employee(s) as deemed necessary by the Board.

### **Obligations:**

To comply with all applicable Federal and State laws, including California Public Resources Code 5780-5791 (Recreation and Park District Law).

### **Board of Directors:**

The Board of Directors for the Rohner Community Recreation and Park District are appointed officials. The Board of Directors for Rohner Community Recreation and Park District finds and declares that it has need for a set of rules and bylaws governing the meetings of the Board of Directors, officers, committees, and other miscellaneous items relating to the Board administration. The Board is responsible for the overall policy, direction and finances of the District, and delegation of responsibility for day-to-day operations of all the facilities under its jurisdiction.

### **Agreements:**

Each board of directors shall receive a copy of all Agreements, Policies, Contracts as well as copies of the current Bylaws. The Board or appointed staff will maintain and have a copy of the minutes and agendas for the current fiscal year at each District meeting. The minutes and agendas for the previous fiscal years will be retained and kept in an orderly manner.

Officers:

The Board of Directors for the District shall consist of a Chairperson and Vice Chairperson, and three (3) Directors at large. The Chairperson and the Vice-Chairperson shall be selected from among members of the Board at the first meeting of the year. All powers of office are shared equally amongst all Directors. The term of office for all offices of the Board of Directors is four (4) years.

Chairperson:

The Chairperson shall preside at all meetings of the District. Except as otherwise authorized by the District, the Chairperson shall submit such recommendations and information as he/she may consider proper concerning the business affairs and polices of the District.

Vice Chairperson:

In the Chairperson's absence, or inability to act, the Vice Chairperson shall perform all acts and duties of the Chairperson.

Secretary:

The Board shall have a Secretary to keep the records of the District, and act as Secretary of the meetings of the District, record all votes and shall keep a record of the proceedings of the District in a journal of proceedings to be kept for such purpose and shall perform all duties incident to his or her office. He/She shall keep in safe custody, all contracts and instruments authorized to be executed by the District. The Secretary for the District may be a Board member; or a paid or volunteer staff member, referred to herein as "Staff".

Additional Duties:

The officers of the District shall perform such other duties and functions as may from time to time be required by the District or the by-laws or rules and regulations of the District.

Vacancies:

All vacancies that occur regarding the Board of Directors shall be filled by appointment by the remaining members of the Board for the balance of the unexpired term.

Parliamentary Authority:

*Rosenberg's Rules of Order* shall be authority on all questions of parliamentary law, unless in conflict with these bylaws or with the laws of the State of California.

Quorum:

A quorum must be attended by at least three (3) Board members before business can



be transacted or motions made or passed. A Board member may attend electronically via telephone or video conference. A majority vote shall consist of an affirmative vote by a majority of the quorum, except for those issues outlined in the Bylaws that require a majority vote of the Board.

#### Regular Meetings:

The Board shall establish regular meetings at an interval of not less than once per month. All meetings of the Board shall be held within the District's jurisdiction. The meeting dates and times shall be held at such place as is designated by the Board and in accordance with the Brown Act.

#### Notices of Meetings:

Public notice of the regular meetings of the Board shall be required in accordance with the laws of the State of California, i.e. Brown Act.

#### Meetings Open To Public:

All meetings of the Board shall be open and public, and all persons shall be permitted to attend all meetings, except Closed Sessions of the Board held in accordance with the law, i.e. Brown Act.

#### Special Meetings and Adjourned Meetings:

Special Meetings and Adjourned Meetings shall be noticed and conducted in accordance with the Ralph M. Brown Act.

#### Closed Meetings:

Closed meetings are the exception and permitted only if they meet defined purposes and follow special requirements set-forth by the State of California, i.e. Brown Act

#### Public Participation:

Oral public comment and participation will be normally limited to items marked "Public comment" on the Agenda. All other comments should be submitted in writing to Staff prior to the meeting for reproduction and distribution to the Board. Any person may address the Board at the commencement of the meeting on any matter within the jurisdiction of the Board. The Chairperson requests that each person addressing the Board limit themselves to five (5) minutes.

#### Minutes:

Minutes of the Board meeting shall be prepared and mailed or e-mailed to each director prior to the next regular Board meeting by Staff. Such minutes need not include the text of ordinances and resolutions adopted, which may be recorded in separate volumes by Staff.

Finances:

The fiscal year of the District shall begin on July 1 and end June 30. District finances may be handled independently by the Board or, at the Board's discretion, in cooperation with the City of Fortuna and/or Humboldt County. Expenditures of \$1,000 to \$4,999 require approval of the Chairperson, and expenditures of \$5,000 or more require approval of a majority of the Board. Records of all money received and dispersed shall be maintained, and be open to public inspection.

Committees:

The Chairperson may establish committees to address specific District issues and needs.

Previous Versions:

These Bylaws supersede and replace any prior versions adopted by previous District Boards.

Amendments:

These bylaws may be amended by a majority vote of the Board.

Passed and adopted by the Board of Directors of the Rohner Community Recreation and Park District at its regular meeting this

Date:

Vote:

# Rohner Community Recreation and Park District Bylaws

## **1. Title:**

The Rohner Community Recreation and Park District (hereinafter referred to as “District”) hereby adopts the following bylaws governing the meetings of the Board of Directors, officers, committees, and other miscellaneous items relating to the Board administration. All meetings of the Board are subject to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

## **2. Mission:**

The mission of the Rohner Community Recreation and Park District is to offer and advocate for recreational opportunities for residents within the District's region. Aquatic recreational activities are the District's first, but not exclusive, priority.

## **3. Authority:**

The District Board is authorized to take action in support of the Mission. Such authority may include: To promote, organize, establish, own, maintain and operate systems of recreation and recreation facilities, including, but not limited to, parks and open space, both inside and beyond the District’s boundaries. The Board may cooperate with city, county, state or federal agencies in support of the Mission. The Board is authorized to raise and disperse funds, and hire employee(s) as deemed necessary by the Board.

## **4. Obligations:**

The District shall comply with all applicable Federal and State laws, including California Public Resources Code Section 5780 *et seq.* (Recreation and Park District Law).

## **5. Board of Directors:**

The Board of Directors for the Rohner Community Recreation and Park District are appointed officials, with two (2) members appointed by the Humboldt County Board of Supervisors and three (3) members appointed by the City of Fortuna. All board members shall serve at the pleasure of the county or city which made the appointments (i.e., non-fixed terms). The Board is responsible for the overall policy, direction and finances of the District, and delegation of responsibility for day-to-day operations of all the facilities under its jurisdiction.

## **6. Documents:**

Each board of directors shall receive a copy of all Agreements, Policies, Contracts as well as copies of the current Bylaws. The minutes and agendas for the previous fiscal years will be retained and kept in an orderly manner by the Board appointed Secretary.

## **7. Officers:**

The Board of Directors for the District shall consist of a Chair and Vice Chair, and three (3) Directors at large. The Chair and the Vice-Chair shall be selected from among members of the Board at the first meeting of the calendar year. All powers of office are shared equally amongst all Directors.

## **8. Chair:**

The Chair shall preside at all meetings of the District. Except as otherwise authorized by the District, the Chair shall submit such recommendations and information as he/she may consider proper concerning the business affairs and policies of the District.

**9. Vice Chair:**

In the Chair's absence, or inability to act, the Vice Chair shall perform all acts and duties of the Chair.

**10. Secretary:**

The Board shall have a Secretary to keep the records of the District, and act as Secretary of the meetings of the District. The Secretary shall keep in safe custody, all contracts and instruments authorized to be executed by the District. The Secretary shall maintain and have a copy of the minutes and agendas for the current fiscal year. The minutes and agendas for the previous fiscal years shall be retained and kept in an orderly manner. The Secretary for the District shall be a Board member; or a paid or volunteer staff member, referred to herein as "Staff".

**11. Additional Duties:**

The officers of the District shall perform such other duties and functions as may from time to time be required by the District or the by-laws or rules and regulations of the District.

**12. Vacancies:**

Any vacancy in the office of a member appointed to the Board of Directors shall be filled pursuant to Section 1779 of the Government Code, which provides that a vacancy shall be filled by the appointing authority within 90 days immediately subsequent to its occurrence.

**13. Parliamentary Authority:**

*Rosenberg's Rules of Order* shall be authority on all questions of parliamentary law, unless in conflict with these bylaws or with the laws of the State of California.

**14. Quorum:**

Three (3) Board members shall constitute a quorum for the transaction of District business. When a quorum is lacking, the Chair, Vice Chair, or any Director shall adjourn such meeting; or, if no Director is present, the District Secretary shall adjourn the meeting.

**15. Majority Vote:**

Except as otherwise specifically provided by law, a majority vote of the total membership of the Board of Directors is required for the Board to take action.

**16. Regular Meetings:**

The Board shall establish regular meetings at an interval of not less than once every three months. All meetings of the Board shall be held within the District's jurisdiction. The meeting dates and times shall be held at such place as is designated by the Board and in accordance with the Brown Act. The Board may cancel or reschedule a meeting at their discretion provided that proper notice is given as required by law.

**17. Notices of Meetings:**

Public notice of the regular meetings of the Board shall be required in accordance with the Brown Act.

**18. Meetings Open To Public:**

All meetings of the Board shall be open and public, and all persons shall be permitted to attend all meetings, except Closed Sessions of the Board held in accordance with the Brown Act.

**19. Special Meetings and Adjourned Meetings:**

Special Meetings and Adjourned Meetings shall be noticed and conducted in accordance with the Brown Act.

**20. Closed Meetings:**

Closed meetings are permitted only if they meet defined purposes and follow special requirements set-forth by the Brown Act.

**21. Public Participation:**

Any member of the public may address the Board on any item within the subject matter jurisdiction of the District during the “Oral Comments from the Public” portion of the agenda. This need not be related to any item on the agenda; however, the Board cannot act on an item unless it was noticed on the agenda. It is the practice of the Board to hold public comment for every item of business on the agenda at the time that item is heard. The Chair requests that each person addressing the Board limit themselves to three (3) minutes.

**22. Agenda:**

Staff, in consultation with the Chair, shall prepare the agenda for each meeting. The agenda, minutes from the previous meeting, and associated staff reports shall be made available to the Board prior to the meeting.

**23. Minutes:**

The minutes of each meeting will be action minutes and subject to comment and revision at the following meeting before approval. Staff shall furnish each member with a draft of the minutes prior to each meeting. Any Board member shall have the right to have the reasons for his or her dissent from, or protest against, any action of the Board, entered in the minutes.

**24. Finances:**

The fiscal year of the District shall begin on July 1 and end June 30. District finances may be handled independently by the Board or, at the Board's discretion, in cooperation with the City of Fortuna and/or Humboldt County. A treasurer shall be appointed by the board to assist in Board finances. Expenditures of \$1,000 or more require approval of a majority of the Board. Records of all money received and dispersed shall be maintained, and be open to public inspection.

**25. Committees:**

The Board may establish ad hoc or standing committees to address specific District issues and needs, as provided below.

- A. Ad Hoc Committees: The Chair may appoint ad hoc committees, consisting of up to two (2) Board members, as deemed necessary. Ad hoc committees shall be utilized as needed and specific to defined and limited-term topics. The duties of all ad hoc committees shall be outlined at the time of appointment, and the committee shall be considered dissolved when its final report has been made.
- B. Standing Committees: The Board may create standing committees at its discretion. Standing committees shall be advisory to the Board and may consider District-related issues, on a continuing basis, as assigned to it by the Board. Members of standing committees shall be appointed by the Board. All standing committee meetings shall be conducted as public meetings in accordance with the Brown Act. Summary notes for each standing committee meeting shall be forwarded to the Board as a public record.

**26. Financial Disclosure:**

Board members are subject to the requirements of the Levine Act and California Fair Political Practices Commission (FPPC), including the annual filing of the Statement of Economic Interests (Form #700) with the Humboldt County Elections Office by the date determined by the FPPC.

**27. Ethics Training:**

Pursuant to California Government Code Section 53234 *et seq.*, all Board members and designated staff shall receive at least two (2) hours of ethics training every two years, including within six (6) months of appointment with the District.

**28. Harassment Prevention Training:**

Pursuant to section 7288.0 (c) of California’s Fair Employment and Housing Act, all Board members and designated staff shall receive at least two (2) hours of sexual harassment training every two years, including within six (6) months of appointment with the District.

**29. Previous Versions:**

These Bylaws supersede and replace any prior versions adopted by previous District Boards.

**30. Amendments:**

These bylaws may be amended by a majority vote of the Board.

PASSED AND ADOPTED by the Board of Directors of the Rohner Community Recreation and Park District at its regular meeting on this 5<sup>th</sup> day of September 2018, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:  
Motion Carried

\_\_\_\_\_  
Abe Stevens, Chair

ATTEST:

\_\_\_\_\_  
Buffy Gray, Deputy City Clerk

**STAFF REPORT**  
***Rohner Community Recreation and Park District Board***  
***Business Agenda Item***

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**DATE:** September 5, 2018

**TO:** Rohner Community Recreation and Park District (RCRPD) Board

**FROM:** Cameron Mull, Director of Parks & Recreation  
Aaron Felmlee, Finance Director

**THRU:** Merritt Perry, Interim City Manager

**SUBJECT: Appointment of Treasurer & Finance Officer**

**STAFF RECOMMENDATION:**

Staff recommends that the RCRPD Board appoint the County of Humboldt Treasurer-Tax Collector, John Bartholomew, as their Treasurer, with the City of Fortuna's Finance Director, Aaron Felmlee, serving as the Finance Officer.

**EXECUTIVE SUMMARY:**

The RCRPD is included in the County of Humboldt 1% property tax rate for all parcels in the RCRPD boundaries (collected at a rate of 0.2% of the 1%). The funds are currently transferred to the City of Fortuna twice annually. Historically, the City has held these funds for use of Parks & Recreation projects. Now that the RCRPD Board has been reformed, the RCRPD needs to formally appoint a Treasurer and Finance Officer. The options for appointing a Treasurer and Finance Officer for RCRPD are as follows:

**Treasurer:** Excerpt from Section 5784.7. of Senate Bill 707

(d) In the case of a district which includes only incorporated territory within a single city, the city treasurer shall act as the district treasurer and shall receive no compensation for the receipt and disbursement of money of the district. In all other cases, the county treasurer of the principal county shall act as the district treasurer and shall receive no compensation for the receipt and disbursement of money of the district.

- One option according to Senate Bill 707, "Recreation and Park District Law", the County Treasurer should be appointed as the RCRPD Treasurer.

**Finance Officer:** Excerpt from Section 5784.9. of Senate Bill 707

(e) The board of directors shall appoint a person who shall be known as the finance officer, who shall serve at the pleasure of the board of directors. The finance officer may be a member of the board of directors, the general manager, or the office of finance officer may be consolidated with the office of secretary. The board of directors shall fix the amount of and approve the finance officer's bond.

Three options according to Senate Bill 707:

- The County of Humboldt continues to serve as the Treasurer, with RCRPD funds being held by the City of Fortuna (current), who serves as the Finance Officer. RCRPD would be required to follow the City's procurement policy when funds need to be withdrawn.
- The County of Humboldt serves as the Treasurer *and* the Finance Officer, in which funds would need to be withdrawn from the County's Auditor-Controller's office, and according to the County's procurement policy.
- The County disburses RCRPD funds directly to a RCRPD bank depository, with RCRPD controlling their own accounts, and a RCRPD Board member is appointed as the Finance Officer.

**FISCAL IMPACT:**

No change in funding, only how RCRPD funds are disbursed and handled.

**RECOMMENDED ACTION:**

Receive recommendation and review any questions with staff

- Open Public Comment
- Close Public Comment
- Appoint the County of Humboldt Treasurer-Tax Collector, John Bartholomew, as the Rohner Community Recreation and Park District Treasurer, with the City of Fortuna's Finance Director, Aaron Felmlee, serving as the Finance Officer. Voice vote.

**ATTACHMENT:**

- "Parks, Progress, and Public Policy"



# Parks, Progress, and Public Policy:

A Legislative History of Senate Bill 707 and  
the “Recreation and Park District Law”

October 2001

## Senate Committee on Local Government

### Members in 2000

Senator Richard K. Rainey, Chairman  
Senator Nell Soto, Vice Chair  
Senator K. Maurice Johannessen  
Senator Patrick Johnston  
Senator Dick Monteith  
Senator Don Perata  
Senator Richard Polanco

Elvia Diaz, Committee Assistant, 2001  
Jane Leonard Brown, Committee Assistant, 2000  
Peter M. Detwiler, Consultant  
Jennifer P. Swenson, Consultant

### Mailing address:

State Capitol, Room 410  
Sacramento, California 95814

### Members in 2001

Senator Tom Torlakson, Chair  
Senator Bob Margett, Vice Chairman  
Senator Dick Ackerman  
Senator Michael J. Machado  
Senator Don Perata  
Senator Nell Soto

916/445-9748 office  
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[www.sen.ca.gov/locgov](http://www.sen.ca.gov/locgov)

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**Parks, Progress, and Public Policy:**  
**A Legislative History of Senate Bill 707 and the Recreation and Park District Law**

Jointly authored by all six members of the Senate Committee on Local Government, Senate Bill 707 completely revises the state statutes governing California's recreation and park districts. Signed into law by Governor Gray Davis as Chapter 15 of the Statutes of 2001, the new "Recreation and Park District Law" takes effect on January 1, 2002.

This report documents the origins and legislative history of that new Law, providing public officials, researchers, legal advisors, and the courts with an understanding of where the statute came from and what its drafters intended to achieve.

The last time that the Legislature overhauled the state laws governing recreation and park districts, President Dwight D. Eisenhower occupied the White House. Since 1957, the voters amended the California Constitution with Propositions 13, 4, and 218. Voter initiatives created the Political Reform Act and changed local officials' fiscal powers. Over the last 44 years, the Legislature expanded the Brown Act, and created LAFCOs, the Public Records Act, the California Environmental Quality Act, and several laws on special taxes and benefit assessments. Nevertheless, the recreation and park district statute reflected few of those significant changes.

During 2000, the Senate Local Government Committee reviewed AB 1905 (Rod Pacheco, 2000), a bill proposing to allow the Jurupa Area Recreation and Park District and the Beaumont-Cherry Valley Recreation and Park District to manage their own fiscal affairs. The Committee's bill analysis noted that the Legislature gave the similar powers to two other districts -- Valley-Wide Recreation and Park District and Coachella Valley Recreation and Park District (SB 198, Kelley, 1999). The Committee amended AB 1905 to allow all recreation and park districts to manage their own fiscal affairs, using the procedures that were already available to community services districts.

Working on the Pacheco bill convinced the Committee's staff that the state laws governing recreation and park districts were incomplete, inaccurate, and archaic. For example, the statute still contained several sections describing how the districts' boards of directors should set their annual property tax rates, a practice that became unconstitutional in 1978 when the voters approved Proposition 13. The districts' principal act lacked references to:

- The role of local agency formation commissions (LAFCOs), created in 1963 to regulate the formation of new special districts.
- Labor relations under the 1965 Meyers-Milias-Brown Act.
- Annual appropriations limits required by the Gann Limit set by Proposition 4 (1979).
- Opportunities to generate alternative sources of revenue created since 1979.

Further, the statute's references to some statutes -- including the Brown Act -- were incomplete and outdated. The Committee's staff advised the Chairman that the Legislature needed to overhaul the entire statute.

In September 2000, Senator Richard K. Rainey appointed a Working Group on Revising the Recreation and Park District Law. The Working Group and its staff advisors met four times in Sacramento to review the current law, direct the drafting of a new statute, and refine its resulting

recommendations. Under the leadership of Senator Tom Torlakson, the Committee's new Chair, the Senate Local Government Committee introduced the Working Group's product in late February 2001, as Senate Bill 707. Moving smoothly through the legislative process, SB 707 reached Governor Davis in late May. The Governor signed the Committee's bill into law in early June.

### **Discovering Legislative Intent**

Unlike the United State Congress, the California Legislature does not produce extensively detailed legislative histories for its bills. The official record consists of the bills themselves, plus the analyses prepared for the policy committees, fiscal committees, and Senate and Assembly Floors. When interpreting statutes, the California courts rely on rules of statutory construction. One court explained these rules this way:

The most fundamental rule of statutory construction is that the court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. The court first looks to the language of the statute, attempting to give effect to the usual, ordinary import of the language and seeking to avoid making any language mere surplusage. Significance if possible should be attributed to every word, phrase, sentence and part of an act in pursuance of the legislative purpose. The various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole. Further, wherever possible, the statute will be construed in harmony with the Constitution. The provision must be given a reasonable and common sense interpretation consistent with the apparent purpose and intention of the lawmakers, practical rather than technical in nature, and which, when applied, will result in wise policy rather than mischief or absurdity. The court should take into account matters such as context, the object in view, the evils to be remedied, the history of the times and of legislation upon the same subject, public policy, and contemporaneous construction.

To ascertain the legislative intent behind a statutory amendment, we may rely upon committee reports provided they are consistent with a reasonable interpretation of a statute. Regarding reliance upon statements and letters of individual legislators in construing a statute, we do not consider the motives or understandings of individual legislators who cast their votes in favor of it. Nor do we carve an exception to this principle simply because the legislator whose motives are proffered actually authored the bill in controversy; no guarantee can issue that those who supported his proposal shared his view of its compass. A legislator's statement is entitled to consideration, however, when it is a reiteration of legislative discussion and events leading to adoption of proposed amendments rather than merely an expression of personal opinion. The statute of an individual legislator has also been accepted when it gave some indication of arguments made to the Legislature and was printed upon motion of the Legislature as a letter of legislative intent. Correspondence within the Governor's file from interested parties does not represent the intent of the Legislature... [where] it is neither a statement of the legislator nor a report to the Legislature from the bill's proponents. Nor will the courts give must weight to post-enactment statements by administrators or other public officials to their understanding of the underlying legislative intent, even though such persons may have actively supported

the measure and irrespective of the fact that the subject matter of the enactment may have directly involved their official responsibilities under existing law.  
[citations and quotation marks omitted]

*Honey Springs Homeowners Assn v. Board of Supervisors* (1984)  
157 Cal.App. 3d 1122, 1136, footnote 11.

One purpose of this report is to record the efforts of the Working Group on Revising the Recreation and Park District Law and the Senate Committee on Local Government, so that public officials, researchers, potential litigators, and the courts may have access to the thinking that the drafters and authors invested in SB 707.

### **Summary of Policies, Powers, Procedures, and Oversight**

The 2001 Recreation and Park District Law differs from the 1957 statute in dozens of ways. One approach to understanding these changes is to look at the how the bill affects the districts' policy, powers, procedures, and oversight.

**Policy.** Some bills contain *explicit* policy statements. Specific findings and declarations of legislative intent are the most obvious ways for legislators to send signals to colleagues, constituents, and judges. A bill may enact a new section that overtly recites findings and declarations. Bills that create major programs often place these recitations immediately after the title of the new division. For lesser measures, a legislator may relegate these statements to an uncodified section. On rare occasions, bills state that they incorporate the changes recommended in outside reports, even citing the studies by name.

More often, legislative policy is *implicit*, to be detected and interpreted from the new statute's context. The ways that a bill arranges procedures, defines terms, limits authority, or raises revenues are clues to the author's intent. When a bill's intent is not plain from its own wording, the courts may look at secondary sources, such as committee bill analyses and reports from interim hearings.

The 1957 law does not contain any overt statement of state policy to guide the districts. In contrast, SB 707 opens with a recitation of legislative intent that clearly emphasizes four recurring themes (see the new Public Resources Code §5780):

- Recreation, park, and open space facilities and services are important to Californians.
- Recreation and park districts are one way to provide these facilities and services.
- Recreation and park districts should cooperate with other agencies and organizations.
- Communities should adapt this statute to fit their own local circumstances.

**Power.** Responsible and effective local governments need enough -- but not too much -- power to carry out their statutory policies. Policies and powers must match. Government power can be both *fiscal* and *regulatory*. If the Legislature sets ambitious policies but fails to provide sufficient power, then administrators can't deliver the program that legislators wanted. Conversely, if the Legislature doesn't explain its policies, then public managers lack guidance on how to use

government powers. But Californians and their legislators distrust powerful governments. Legislators search for balance between providing governmental powers that fulfill legitimate public policies and protecting their constituents' rights and incomes.

The Working Group spent hours scrutinizing the 1957 law and recommending changes. Some of the specific differences:

- Allow voters to delete or add eminent domain powers (§5786.5).
- Allow voters to elect directors at large, by districts, or from divisions (§5785).
- Allow voters to convert boards of directors from appointed to elected (§5785.3).
- Allow counties and cities that govern districts to have advisory commissions (§5784.5).
- Allow the districts to annex and serve noncontiguous territory (§5781).
- Delete the current power to provide fire protection, garbage, and street lighting.
- Preserve three districts' existing special powers (§5786.7).
- Tighten the requirements for adopting annual budgets, including reserves (§5788.9).
- Treat the districts like other agencies for temporary borrowing (§5788.17).
- Allow the districts' boards to set their own stipends like other agencies (§5784.15).
- Allow the districts to change their names without county or city approval (§5786.9).
- Allow the districts to manage their own finances (§5784.9).

Procedures. The reformist impulses of the Progressive Era and several Populist movements are still strong in California government and politics. Californians insist on fair access to decisions and to their decision-makers. State statutes that regulate procedures include the *Brown Act* (local officials' meetings must be open and public), the *Public Records Act* (insuring access to government documents), the *Political Reform Act* (requiring disclosure of economic interests), and a myriad of statutory requirements for public notice, public hearings, protests, and elections.

SB 707 uses a contemporary drafting format, including a modern writing style for easier reading by officials and residents, gathers together related topics for quicker reference, renumbers the entire statute, and leaves room for future amendments. To improve effective administration and political accountability, SB 707 contains cross-references to other major statutes that apply to the districts as well as to other local governments:

- Lawsuits to validate decisions, bonds, and boundaries (§5780.9).
- Boundary changes under the Cortese-Knox-Hertzberg Act (§5781.1).
- Formation procedures under the Cortese-Knox-Hertzberg Act (§5782.7).
- Open meetings under the Brown Act (§5784.11).
- Following local planning and zoning (§5786.3).
- Employee relations under the Meyers-Milias-Brown Act (§5786.19).
- Elections under the Uniform District Election Law (§5787).
- Allocation of property tax revenues (§5788.13).
- Temporary borrowing for dry period loans (§5788.17).
- Regular audits and annual financial reports (§5788.25).
- Special taxes under the Mello-Roos Act and other laws (§5789.1).
- Benefit assessments under the 1911, 1913, 1915, and 1972 Acts (§5789.3).

SB 707 also improves the procedures to form zones within districts so that officials can segregate the costs and benefits of recreation facilities and services (§5791). Further, SB 707 spells out the detailed procedures that districts must use to invite competitive bids on materials, supplies, and labor. SB 707 raises the districts' bidding limit and the force account limit from \$5,000 to \$25,000 (Public Contract Code §20815.1).

**Oversight.** Responsive government is accountable government. Spawned in righteous enthusiasm, some public programs outlive their usefulness but continue only because legislators forget about them. Institutional inertia, changing social and political climates, and automatic budgeting can combine to allow archaic and ineffective programs to persist. One of the politically least attractive -- but potentially most powerful -- legislative duties is to oversee existing programs. As the term limits imposed by Proposition 140 accelerate legislative turnover, the legislators who originally authored new laws may not be around to monitor their implementation.

Legislators can avoid creating perpetual programs by insisting that new programs contain oversight mechanisms: *regular records and reports*, *special studies*, and *sunset clauses*. One common practice requires administrators to evaluate a new program after its sixth year. That approach allows program managers to review five years worth of experience. Then the bill's sunset clause repeals the program after the seventh year unless a later statute extends the deadline. This practice forces legislators, legislative staff, program administrators, and interest groups to examine a program, react to its evaluation, and then consider the program's future. Legislative inaction automatically ends the program.

With SB 707 the voters gain expanded control over their boards of directors as the bill allows them to elect their boards at large, by divisions, or from divisions (§5785). The voters can also decide to convert an appointed board into an elected board (§5785.3). SB 707 requires stricter handling of budgetary reserves (§5788.9). SB 707 repeats the requirement for the districts to conduct regular audits and file annual reports with the State Controller (§5788.25).

### **The Working Group**

Successfully rewriting an old statute requires considerable knowledge of the current state law and local practices. It also requires a willingness to anticipate possible political objections to the recommended revisions. With these objectives in mind, Senator Rainey, the Committee's Chairman, insisted that the revision effort result in a work product that was as nearly a consensus as possible. Senator Rainey created a 17-member Working Group on Revising the Recreation and Park District Law. On September 18, 2000, after consulting with representatives from the California Association of Recreation and Park Districts, the California Parks and Recreation Society, and other groups he sent out invitation letters and secured the participation of:

#### **Three recreation and park district board members:**

Hon. George Delacruz, Ambrose Recreation and Park District, Bay Point  
 Hon. Gisela Gosch, Valley-Wide Recreation and Park District, Hemet  
 Hon. Mark Sweeney, Chico Area Recreation and Park District, Chico



Three recreation and park district general managers:

Douglas A. Bell, Livermore Recreation and Park District, Livermore  
 Jeff Dubchansky, Fulton-El Camino Recreation and Park District, Sacramento  
 Tex Ward, Conejo Recreation and Park District, Thousand Oaks

Three specialists in recreation and park districts:

Mark Cornelius, legal counsel, Pleasant Hill Recreation and Park District, Pleasant Hill  
 L.A. "Bud" Critzer, former general manager, Hayward Recreation and Park District, Hayward  
 Michael E. Kyle, legal counsel, Livermore Area Recreation and Park District, Pleasanton

Eight representatives of potentially affected interest groups:

California Association of LAFCOs, Scott Harvey, executive director  
 California Association of Recreation and Park Districts, Ralph Miller, executive director  
 California Association of Recreation and Park Districts, Ralph Heim, legislative advocate  
 California Parks and Recreation Society, Douglas D. Houston, legislative advocate  
 California State Association of Counties, Peter Brundage, County of Sacramento  
 California Taxpayers Association, Larry A. McCarthy, executive director  
 Howard Jarvis Taxpayers Association, Jon Coupal, president  
 League of California Cities, Daniel J. Carrigg, legislative advocate

Two groups -- the American Planning Association-California Chapter and the California Association of Realtors -- declined Senator Rainey's invitation to participate as members of the Working Group. They concluded that their members' interests were not sufficiently affected by recreation and park districts.

Besides the 17 members of the formal Working Group, several staff advisors contributed to the research, drafting, and evaluation process:

Paul Antilla, Legislative Counsel's Office  
 Frances Chacon, Assembly Local Government Committee  
 Peter Detwiler, Senate Local Government Committee  
 Brian Grattidge, Governor's Office of Planning and Research  
 Tom Hudson, Senate Republican Policy Caucus  
 Patti Lambert, Ambrose Recreation and Park District  
 Michael Martello, Mountain View City Attorney  
 Kate Neiswander, Senate Natural Resources and Wildlife Committee  
 Marianne O'Malley, Legislative Analyst's Office  
 Mary Pitto, Calaveras LAFCO  
 Kristy Stauffacher, Assembly Water, Parks, and Wildlife Committee  
 Stacey Sullivan, Assembly Local Government Committee  
 Jennifer Swenson, Senate Local Government Committee  
 William Weber, Assembly Republican Caucus  
 Sherry Williams, Governor's Office of Planning and Research  
 Morgan Zeitler, State Department of Parks and Recreation  
 Cedrik Zemitis, State Department of Finance

## **A Brief History of Recreation and Park Districts**

No historian has recorded and interpreted the origins of California's recreation and park districts but research prepared for the Working Group's project uncovered some statutory features.

The districts' statutory origins go back 70 years. In 1931, the Legislature passed a bill allowing for the creation of "recreation districts." These districts could build dams across rivers to create swimming pools. A county board of supervisors would appoint five trustees to govern a recreation district. Assemblyman Hubert Scudder was the author of AB 725 which became Chapter 1058 of the Statutes of 1931. The act creating the districts was uncodified. The California Legislature was still in the process of organizing its statutes into topical codes. Legislators didn't set up the Public Resources Code until 1939. The recreation districts' law was free-standing.

Hubert Baxter Scudder (1888-1968) had been a city councilman and mayor in his hometown of Sebastopol (Sonoma County) before serving in the Assembly in 1925-40, representing Sonoma and Marin Counties. Although Scudder was a Republican, he occasionally also won the Democratic Party's nomination because of cross-filing. Scudder was the State Real Estate Commissioner in 1943-48 before being elected to the United States Congress where he served in 1949-59. After deciding not to run again, Scudder returned to his real estate and insurance business in Sebastopol. He died there in 1968.

Although the research prepared for the Working Group uncovered no documentation, it is plausible that Scudder carried his 1931 bill to promote recreation for the vacation resorts along the Russian River in Sonoma County. Many San Francisco families kept summer cottages on the River and resort owners also had cabins and rooms for rent. Four recreation and park districts currently exist along the Russian River --- Camp Meeker, Del Rio Woods, Monte Rio, Russian River --- and some still run swimming facilities.

In 1939, the Legislature passed AB 1875 (Scudder) and enacted the new Public Resources Code, reorganizing and codifying many earlier state laws. As part of that effort, Scudder's 1939 bill created three separate types of park districts:

- Recreation Park and Parkway Districts (former Public Resources Code §5400).
- County Recreation Districts (former Public Resources Code §5431).  
(These were the "recreation districts" created by Scudder's 1931 legislation.)
- Regional Park Districts (Public Resources Code §5500).

Scudder's bill became Chapter 93 of the Statutes of 1939.

Also in 1939, the Legislature passed AB 279 (Reaves) and created a fourth type of park district, called "Park, Recreation and Parkway Districts" (former Public Resources Code §5630). Los Angeles County Assemblyman Fred Reaves' bill became Chapter 426 of the Statutes of 1939.

As if four different categories of park districts weren't enough, in 1947, the Legislature created a fifth type, called "Regional Shoreline Park and Recreation Districts" (former Public Resources Code §5680). SB 1414 by Senator Chris N. Jespersion of San Luis Obispo County became Chapter 1193 of the Statutes of 1947.

In 1957, Assemblyman Clark Bradley authored AB 3968 which repealed the laws governing four of the five types of recreation districts and instead created a new statute for “Recreation and Park Districts” (Public Resources Code §5780). By enacting Chapter 2165 of the Statutes of 1957, the Legislature intended for the recreation and park districts to replace the four other types of districts (see 32 Ops.Cal.Atty.Gen. 3, 8 [1958]). Assemblyman Bradley’s bill left in place the law governing regional park districts.

In 1958, 21 recreation and park districts created the California Association of Recreation and Park Districts. Headquartered in the Norwalk offices of the Southeast Recreation and Park District, the Association’s board of directors included representatives from the Southeast, Greater Vallejo, East Bay Regional, Yucaipa, Pleasant Hill, Ambrose, Russian River, Hayward Area, and Downey recreation and park districts. The trade association charged districts \$25 a year to join.

In 1959, the Senate Interim Committee on Study of Districts issued a preliminary report, based on local officials’ responses to the Committee’s survey. In those days, the California Legislature met in odd-numbered years, spending the even-numbered years studying policy and fiscal issues. Under the leadership of Senator Harold T. Johnson, the Committee wrote to hundreds of special districts in February 1958, asking them to identify statutory problems and inviting them to suggest improvements. Based on the March 19, 1958 letter from Keith A. Macdonald, executive director of the Greater Vallejo Recreation District, the Committee’s report included four recommendations:

- Study the conflicts between the Public Resources Code and the Government Code regarding district board members’ elections.
- Allow districts to manage their own funds.
- Improve the relationship between existing parkway districts and new cities.
- Send out the Attorney General’s opinions more widely.

Later in 1959, perhaps prompted by Senator Johnson’s Committee report, the Legislature amended the recreation and park districts’ statute to clean-up several items. Authored by Assemblyman Bradley, AB 2002 became Chapter 2181 of the Statutes of 1959. Over the last 40 years, the Legislature has amended the districts’ statutes in a variety of ways, often to accommodate local special circumstances. For example, in 1999, the Legislature allowed two districts in Riverside County to manage their own finances instead of having to use warrants drawn on the county treasury (SB 198, Kelley, 1999). Curiously, that change was first recommended to the Senate Interim Committee on Study of Districts in 1958.

The 1957 statute directed the State Department of Parks and Recreation to review the districts’ laws “from time to time” and report any recommendations to the Legislature (Public Resources Code §5780.17). Research by Morgan Zeitler, the Department’s legislative analyst, was unable to find any evidence that the Department had performed this review. It appears that the recent effort, culminating in SB 707, was the first thorough review of the districts’ statutes.

## The Revision Project

The Working Group met four times in Sacramento. At its first three meetings, the Working Group reviewed the contents of the 1957 law and recommended revisions. Then the Working Group met once again to review and improve the draft statute that became SB 707.

October 5, 2000. The Working Group's initial meeting on October 5 convened in the State Capitol. The staff of the Senate Local Government Committee had prepared a copy of the 1957 law presenting each section on a separate page, along with a description and a staff commentary. This 140-page "Text & Commentary" document became the basis for the Working Group's evaluation of the 1957 law.

The Committee's staff also provided the Working Group with a "Disposition Table" which listed each current section, its topic, and a place to indicate how the Working Group proposed to dispose of that section. As the effort progressed, the staff revised the Disposition Table on October 10, October 18, November 30, and December 21 to reflect the Working Group's evolving recommendations. On October 5, the Working Group also received the staff's brief written descriptions of the statute's origins, and summaries of court decisions and Attorney General's opinions affecting recreation and park districts.

The October 5 session lasted about three hours. Following self-introductions, Peter Detwiler described Senator Rainey's charge to the Working Group. The members of the Working Group were supposed to be "ambassadors" to and from the 91 recreation and park districts and the other interested parties. The staff advisors would provide the Working Group with talent and experience from many fields. Senator Rainey intended that the process of revising the statute would be inclusive and that no one would be excluded from the discussions. Although the recommendations from the Working Group would be taken with the highest seriousness, the project was under the control of the Senate Local Government Committee. Legislators would have the final say about the contents of the resulting bill. While consensus among the participants was desired, it was not required. The Senate Local Government Committee understood that the interest groups would be free to take their own positions, just as individual recreation and park districts would take their own positions on the resulting bill.

Detwiler continued by acknowledging that revising the recreation and park district statute was "not the biggest public policy issue of the new millenium" but it was important to the 91 districts because it affects real people's real lives. Some districts like the Parker Dam Recreation and Park District are small while the Southgate Recreation and Park District and others serve big communities. Some recreation and park districts are dependent districts while most are independent special districts. The revision project had to be flexible enough to cover all of those interests. The project would be a thorough review and rewrite of the current law. The Senate Local Government Committee did not intend for this project to affect regional park and open space districts, memorial districts, LAFCOs, or the ERAF property tax revenue shifts.

After these introductory comments, the Working Group launched right in to reviewing the sections of the current law. Using a rating sheet, the members assigned each section a letter grade to guide the eventual drafting of the proposed new law. There were four choices:

- A *This section is fine, just the way it reads.*  
 B *This section is in good shape but it needs this minor change: \_\_\_\_\_.*  
 C *This topic should be retained but the contents need work. It should include: \_\_\_\_\_.*  
 D *This section is obsolete. Repeal it.*

The members reviewed Public Resources Code §5780 through §5780.19 before the first day's discussions ended.

October 12, 2000. The section-by-section review started again when the Working Group met for the second time on October 12 in the State Capitol. The Working Group received a revised Disposition Table that reported the ratings they had assigned to the statutory sections so far. The Working Group's discussions lasted from 9:30 a.m. to 3:00 p.m. and covered Public Resources Code §5780.20 through §5782.5.

October 19, 2000. Before continuing its detailed review of each section of the law on October 19, the Working Group received a draft inventory of the 91 existing recreation and park districts, based on information provided by the State Controller's Office. The Working Group also received a research memo it had requested on October 12 from Peter Detwiler on the subject of removing appointed board members. A revised Disposition Table showed the Working Group what it had recommended in the previous weeks. Working from 9:30 a.m. to early afternoon in the conference room of the Governor's Office of Planning and Research, the participants' discussions covered the remaining sections of the current law.

Draft #1. Following the October meetings, the Senate Local Government Committee's staff prepared Draft #1 of the proposed new statute and mailed it to the members of the Working Group for review. Dated November 30, 2000, Draft #1 reflected the Working Group's recommendations for revision. The text of each draft section appeared on a separate page, along with a statement of the "Topic, Derivation, and Comments" prepared by the Committee's staff. A revised Disposition Table, an Outline for Draft #1, and a new Source Table accompanied the initial draft. The Source Table listed each proposed section, its topic, and the citation to the section of the existing law upon which the proposed section was based.

In preparing Draft #1, the Committee's staff used the Working Group's detailed advice to collect similar statutory topics into thematic articles, remove obsolete language, and insert statutory cross-references instead of repeating existing law. An outline of 12 distinct articles formed the structure of the proposed new statute:

General provisions	Board of directors	Finance
Area and boundaries	Reorganization boards	Alternative revenues
Formation	Powers and duties	General obligation bonds
Initial directors	Elections	Zones

Relying on the past success in rewriting the Fire Protection District Law (Health & Safety Code §13800, et seq., added by SB 515, Bergeson, 1987), the Committee's staff relied on that statute as a model for preparing Draft #1. Many of the draft code sections resemble the statutes that govern fire districts.

When the Senate Local Government Committee sent out review copies of Draft #1, the staff invited the Working Group and the staff advisors to ask themselves four questions:

- *Does the proposed language do what the Working Group wanted?*
- *Is the proposed language clear and unambiguous?*
- *What's missing from the proposed language.*
- *What specific improvements are needed?*

The Committee's staff also sent specific requests to individual members of the Working Group and to individual staff advisors, asking them to pay particular attention to certain sections of Draft #1. For example, the Committee staff asked Dan Carrigg, representing the League of California Cities, to review the proposed section regarding the districts' use of eminent domain. Larry McCarthy (California Taxpayers Association) and Jon Coupal (Howard Jarvis Taxpayers Association) received notes inviting their specific comments on the districts' finances, alternative revenues, and general obligation bonds. Coupal responded with a December 5 letter, raising concerns over the proposal to hike the limit on the districts' bonded debt and the use of benefit assessments. Because of Coupal's specific objection, the Working Group changed Draft #1 and reduced the bond limit back to the existing 10% instead of the proposed 20% which some members had wanted.

December 14, 2000. Returning to the State Capitol on December 14, the Working Group undertook a section-by-section review of Draft #1. Using the format they had applied during the October meetings, the Working Group members discussed the text of each draft section and either assented or suggested revisions. The Working Group was able to cover the entire 94-page draft at this meeting. Although Draft #1 was generally acceptable to the participants, they recommended many adjustments, revisions, and wording changes.

One of the Working Group's few controversies surfaced again at the December 14 hearing --- the issue of how recreation and park districts can use their powers of eminent domain. The 1957 law allows a district to use eminent domain within its boundaries but the district must get the prior approval of its "supervising authority," i.e., the county board of supervisors or the city council of the underlying county or city (Public Resources Code §5782.5 [c]). Complicating that procedural requirement is the 1981 case, *Conejo Recreation and Park District v. Frank W. Armstrong* (114 Cal.App. 3d 1016). The court blocked the District's attempt to use eminent domain because the District had failed to tell the property owner that the county supervisors would be considering the District's request to use eminent domain. Without specifying what might constitute adequate notice, the Court held that the property owner was entitled to notice of the board of supervisors' consideration of the District's request to use eminent domain.

When the Working Group reviewed the eminent domain provision in the 1957 law, district directors George Delacruz and Gisela Gosch argued that the Legislature should allow the recreation and park districts to use eminent domain without having to get prior approval from the underlying county or city government. Most recreation and park districts, they argued, are independent special districts with directly elected boards of directors which are accountable to local voters. In the 1950s it may have been more common for counties and cities to supervise special districts but now the districts are separate local governments. Further, these Working Group members noted that state law does not require other types of special districts to get county or city approval

before using eminent domain. Representing cities, Dan Carrigg explained that cities wanted to retain the power to give permission before a recreation and park district could use eminent domain within city limits.

Draft #1 retained the requirement that a district first obtain the approval of the underlying county or city before it uses eminent domain. That language in Draft #1 also responded to the 1981 Conejo decision by requiring a district to notify the potentially affected property owner 20 days before the county or city acts on the district's request.

The Working Group took up this issue once more on December 14 when it reviewed Draft #1. The Working Group members representing the districts again proposed to delete the requirement for prior approval. Peter Brundage, representing the counties, said that counties would not insist on having the power of prior approval provided that a district notify the underlying county or city 45 days before acting. Brundage suggested a notice procedure similar to the one that local officials follow before disposing of surplus property. Because Dan Carrigg was not able to attend the December 14 meeting there was no objection from the cities. The Working Group agreed to Brundage's suggestion and that approach appeared in Draft #2.

Draft #2. Released on December 21, 2000, Draft #2 (along with the revised Disposition Table, Outline, and Source Table) incorporated the changes recommended by the Working Group the week before. The transmittal memo from the Senate Local Government Committee invited the Working Group and its staff advisors to provide any final comments and recommended changes by January 5, 2001. The Committee's staff also submitted a modified version of Draft #2 to the Legislative Counsel for formal drafting as a bill to be introduced in 2001.

Representing cities, Dan Carrigg strongly objected to the provision in Draft #2 that allowed a district to use eminent domain without first obtaining the approval of the underlying county or city. Carrigg followed up his objection with a formal letter on February 1, 2001.

### **The Legislative History of SB 707**

In late January 2001, the Senate Committee on Rules appointed Senator Tom Torlakson to chair the Senate Local Government Committee for the 2001-02 Session. Elected in November 2000, Torlakson replaced Richard Rainey as the legislator representing the 7<sup>th</sup> Senate District and, coincidentally, as the Chair of the Senate Local Government Committee. Senator Torlakson agreed that the Committee would continue to the revision project that had started in 2000.

On February 14, 2001, Senator Torlakson wrote to the other members of the Senate Local Government Committee, inviting them to join him in jointly authoring a bill to revise the recreation and park districts' statute. The Committee then introduced a modified version of Draft #2 as Senate Bill 707 on February 23, 2001. Five of the Committee members --- all but Senator Michael J. Machado --- were listed as the bill's initial authors.

Senator Machado withheld his participation because the League of California Cities opposed the provision in the introduced version of SB 707 that would have allowed a recreation and park dis-

trict to use its eminent domain powers without first gaining the approval of the underlying city council or county board of supervisors. When the Committee amended the bill on March 27 in response to the League of California Cities' concerns, Senator Machado added his name to the list of SB 707's joint authors. All six members of the Senate Local Government Committee jointly authored the final version of SB 707.

Copies of the text of each version of SB 707, copies of the analyses prepared for the bill, and records of the Legislature's votes on the measure are available from the website maintained by the Legislative Counsel: [www.leginfo.ca.gov](http://www.leginfo.ca.gov).

February 23 version. As introduced in the Senate on February 23, 2001, SB 707 covered five sections in 37 pages. The February 23 version of the bill was similar to Draft #2, plus the corrections and changes recommended by the Working Group.

March 27 version. Amended in preparation for its first policy committee hearing, SB 707 grew to 39 pages because of 10 changes. The March 27 amendments:

- Added Senator Machado's name to the list of authors.
- Corrected a typographical error in the name of the new statute in the Public Contract Code section (page 2, lines 23-24).
- Created a separate section with a new process for a district to establish an alternative depository, allowing district officials to manage their own funds (page 13, line 10 to page 14, line 30). This amendment reflected the request of local officials who wanted to see the entire process in the Recreation and Park District Law rather than a cross-reference to the Community Services District Law.
- Renumbered sections to accommodate that new section (pages 14 and 15).
- Corrected a typographical error in the reapportionment provisions (page 16, line 30).
- Changed the procedures for using eminent domain, requiring a district to obtain the approval of the underlying city council or county board of supervisors, and to notify the affected property owners (page 21, line 25 to page 22, line 2). This amendment eliminated the League of California Cities' objections.
- Moved the provision allowing districts to borrow money in anticipation of future revenues from §5788.19 to §5788.17, without substantive change (page 31, lines 10-15 and lines 18-23).
- Corrected a typographical error in the debt limit provision (page 31, line 30).
- Improved the provisions relating to the issuance of general obligation bonds (page 34, line 16; page 35, lines 5, 12-14, 17, 18, 20, 23-26).
- Changed the legislative declaration regarding the Working Group's recommendations (page 38, line 36). The League of California Cities noted that the eminent domain language recommended by the Working Group changed with the March 27 amendments.

The improvements to the general obligation bond procedures were recommended by Jeff Stava, an attorney with the Irvine office of Nossaman, Guthner, Knox & Elliott, LLP. Representing the California Association of Recreation and Park Districts on the Working Group, the Association's executive director Ralph Miller had invited Stava to review SB 707 and recommend improvements.



April 4 hearing. SB 707 was on the agenda of the Senate Local Government Committee for its hearing on Wednesday, April 4. In advance of the hearing, the Committee's staff released a three-page bill analysis that sketched how the bill affected the Legislature's policy, power, procedures, and oversight for recreation and park districts. Senator Torlakson presented the bill to his committee colleagues. Senator Torlakson's statement declared, "The last time the Legislature revised this law was in 1957. A lot has changed since then but the statutes haven't kept up with reality." Four members of the Working Group appeared as witnesses to support of SB 707:

- Ralph Miller, executive director, California Association of Park & Recreation Districts.
- Bud Critzer, former general manager of the Hayward Area Recreation & Park District.
- Doug Houston, lobbyist for the California Park and Recreation Society.
- Ralph Heim, lobbyist for the California Association of Park & Recreation Districts and the California Special Districts Association.

When no witnesses appeared in opposition to SB 707, Senator Ackerman moved the bill. The Committee voted 5-0 to pass the measure, recommending that it appear on the Consent Calendar when it reached the Senate Floor.

Senate approval. To prepare for the Senate's action on SB 707, the Office of Senate Floor Analyses released a four-page bill analysis that generally followed the one prepared by the Senate Local Government Committee. On April 19, without debate the Senate passed SB 707 and the other bills on its Consent Calendar by a vote of 33-0. Following a parliamentary maneuver, the Senate reconsidered all of the Consent Calendar bills but then passed them again the same day on a 35-0 vote, sending SB 707 to the Assembly.

April 26 version. The second set of amendments prepared SB 707 for its hearing before the Assembly Committee on Local Government. With the April 26 amendments, the bill covered 38 pages. The two amendments:

- Made it easier for a district to issue its own warrants when managing district funds (page 14, lines 4-10).
- Correct a typographical error in the procedures for managing funds (page 14, line 21).

From his perspective as the experienced general manager of the Conejo Recreation and Park District and as a member of the Working Group, Tex Ward argued that the districts needed more flexibility in setting up local procedures for handling their own funds. Ward pointed to the discretion that legislators had already given general law cities to create their own procedures for issuing warrants (e.g., Government Code §37203). His recommendations became the basis for that portion of the April 26 amendments.

May 2 hearing. The Assembly Local Government Committee's four-page bill analysis prepared for its May 2 hearing did not raise any policy questions about SB 707. In the absence of any recorded opposition, the Committee placed the bill on its Consent Calendar. Accordingly, Senator Torlakson did not appear at the hearing and the Committee received no testimony. The Committee approved its Consent Calendar, including SB 707, by a vote of 11-0. The bill then advanced to the Assembly Floor.

Assembly approval. On May 10, the Assembly voted 76-0 to approve its Consent Calendar, including SB 707. Following the Assembly's accepted custom and practice, there was no debate over any of the bills on the Consent Calendar.

Senate concurrence. Because of the April 26 amendments, SB 707 came back to the Senate for concurrence in the Assembly's amendments. Once again, the Office of Senate Floor Analyses prepared a review of the measure, noting that the "Assembly amendments make technical changes." Because no "no" votes had ever been cast against the bill and because there was no recorded opposition to the measure, SB 707 qualified for the Senate's Special Consent Calendar. The Senate Floor vote of 39-0 came on May 21.

Supporters. Five statewide associations, seven individual districts, and a LAFCO formally endorsed SB 707. Formal letters of support came from the California Association of Local Agency Formation Commissions, the California Association of Recreation & Park Districts, the California Park & Recreation Society, the California State Association of Counties, and the League of California Cities. Additional support letters came from these districts: Ambrose, Chico Area, Conejo, Fulton-El Camino, Hayward Area, Livermore Area, and North Bakersfield. The Orange County Local Agency Formation Commission (LAFCO) also sent a letter supporting SB 707.

Governor's approval. Following the standard practice, SB 707 went through the formal enrollment procedures and then reached Governor Gray Davis on May 24. On behalf of the members of the Senate Local Government Committee, on May 22 Senator Torlakson sent a two-page letter to Governor Davis, asking him to sign the Committee's bill. He enclosed a two-page summary of the bill's provisions. Senator Torlakson's letter outlined the procedures that the Working Group and the Committee had "made extensive efforts to invite others' comments and then to respond to concerns." His letter concluded with this statement:

The 90-some recreation and park districts deliver important services to California's communities. In some small towns, these districts are the face of local government to their residents. They keep the community center open, provide summer recreation programs, and help school-age kids with after school activities. In larger communities, the districts operate entire chains of parks and open space preserves besides running programs for seniors, families, and youth. The ability of communities to take a uniform statewide law and adapt it to fit local conditions and circumstances has always been important. I am convinced that SB 707 furthers that approach.

On June 5, Governor Gray Davis signed SB 707 and later that same date the Secretary of State's office chaptered the Committee's bill as Chapter 15 of the Statutes of 2001. It had been just over 14 weeks between the bill's introduction on February 23 and the Governor's signature on June 5. The new Recreation and Park District Law will become effective on January 1, 2002.

The SB 210 modification. After the successful enactment of SB 707, the board of directors of the Southgate Recreation and Park District (Sacramento County) raised questions about a provision in the new law that retained an unusual governance arrangement just for that District.

Under the former Public Resources Code §5783.3, nonresident property owners could be elected or appointed to a board of directors. According to the Working Group, there were at least seven districts with directors who were not residents but owned property in their districts: Ambrose, Del Rio Woods, Fulton-El Camino, Monte Rio, Rim of the World, Russian River, and Southgate. The Working Group wanted to end this unusual arrangement but allow those nonresident property owners who were already on districts' boards to continue to serve and continue to run for reelection. In SB 707 this grandfather clause became Public Resources Code §5784.1 (b). The Working Group also noted that the Southgate District not only elected nonresident property owners to its board, but it also elected its board members by divisions. Accordingly, the Working Group recommended the specific language for the Southgate District that appeared in the new law as Public Resources Code §5784.1 (c).

When the Southgate District decided that it no longer wanted this special provision, it instructed its lobbyist, Doug Houston, to seek an amendment. Houston had served on the Working Group as a representative of the California Park and Recreation Society. The Southgate District did not object to the special governance language during the Working Group discussions or during the legislative review of SB 707. At the Southgate District's request, conveyed by Doug Houston, the Senate Local Government Committee amended SB 210, the "Local Government Omnibus Act of 2001," on June 20, to change the new Public Resources Code §5784.1. Section 51 of SB 210 deleted subdivision (c) from that new section, the language that had been the special provision for the Southgate District. Governor Gray Davis later signed SB 210 into law as Chapter 176 of the Statutes of 2001, and the Committee's omnibus bill will take effect on January 1, 2002. This provision of SB 210 "chapters-out" the language enacted by SB 707, so that the omnibus bill's version will prevail.

## Text and Commentary

### CALIFORNIA PUBLIC RESOURCES CODE

#### Division 5. Parks and Monuments

#### Chapter 4. Recreation and Park Districts

#### Article 1. General Provisions

5780. (a) This chapter shall be known and may be cited as the Recreation and Park District Law.

(b) The Legislature finds and declares that recreation, park, and open space facilities and services are important to improving and protecting the quality of life for all Californians. The Legislature further finds and declares that the provision of recreation, park, and open space facilities and services are essential services which are important to the public peace, health, and welfare of California residents. Among the ways in which local communities have provided these facilities and services has been the creation and operation of recreation and park districts. For at least seven decades, state laws have authorized recreation and park districts to provide recreation programs, local parks, and open spaces. Local officials have used this statutory authority to serve the diversity of California's communities and residents. In enacting this chapter, it is the intent of the Legislature to create and continue a broad statutory authority for a class of special districts that provides community recreation, park, and open space facilities and recreation services within specified boundaries and under local control. It is also the intent of the Legislature that recreation and park districts cooperate with other public agencies and private organizations to deliver those facilities and services. Further, the Legislature encourages local communities and local officials to adapt the powers and procedures provided by this chapter to meet the diversity of their own local circumstances and responsibilities.

Topic, Derivation, and Comments: Name and Legislative Intent. New section. This section gives the statute a formal name which the 1957 law lacks.

Subdivision (a) signals the formal beginning of the principal act for recreation and park districts.

Subdivision (b) formally expresses the Legislature's intent in enacting the Recreation and Park District Law. The 1957 law lacks any formal recitation of the Legislature's intent. The language includes key phrases that signal the importance of the statute. The language repeatedly mentions a trio of purposes: recreation, parks, and open space. It links them back to the constitutional principles of public peace, health, and welfare. It calls them "essential services," a term that may help the districts in future legislative battles over scarce revenues. The language also talks about both facilities (physical projects) and services (programs). Further, the language recognizes the importance of adapting a statewide statute to local circumstances, retaining the tradition of local control.

5780.1. As used in this chapter:

- (a) “Board of directors” means the board of directors of a district.
- (b) “City” means any city whether general law or charter, including a city and county, and including any city the name of which includes the word “town.”
- (c) “Community recreation” means recreation facilities and services engaged in under the control of a district.
- (d) “District” means a recreation and park district created pursuant to this chapter or any of its statutory predecessors.
- (e) “Local agency” means a city, county, city and county, special district, school district, community college district, community redevelopment agency, joint powers agency, or any other political subdivision of the state.
- (f) “Principal county” means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district.
- (g) “Recreation” means any voluntary activity which contributes to the education, entertainment, or cultural, mental, moral, or physical development of the individual, group, or community that attends, observes, or participates. “Recreation” includes, but is not limited to, any activity in the fields of art, athletics, drama, habitat conservation, handicrafts, literature, music, nature study, open space conservation, science, sports, and any formal or informal play that includes these activities.
- (h) “Recreation facility” means an area, place, structure, or other facility under the jurisdiction of a public agency that is used either permanently or temporarily for community recreation, even though it may be used for other purposes. “Recreation facility” includes but is not limited to an arts and crafts room, auditorium, beach, camp, community center, golf course, gymnasium, lake, meeting place, open space, park, parkway, playground, playing court, playing field, recreational reservoir, river, and swimming pool. A recreation facility may be owned or operated jointly by a district and other public agencies.
- (i) “Voter” means a voter as defined by Section 359 of the Elections Code.
- (j) “Zone” means a zone formed pursuant to Article 12 (commencing with Section 5791).

Topic, Derivation, and Comments: Definitions. These definitions apply throughout the entire chapter. This section brings together several statutory definitions that had been scattered throughout the 1957 law.

Subdivision (a) derived from §5780.2.

Subdivision (b) derived from §5780.3 and based on Health & Safety Code §13802 (a).

Subdivision (c) derived from §5780.5. Although seemingly redundant of (g), the separate definition is still needed in light of the Attorney General's 1958 opinion that held that a district can't contract with a private organization to provide recreation services that are not under the district's "direct control" (32 Ops.Cal.Atty.Gen. 3). The Working Group asked to delete "direct."

Subdivision (d) derived from §5780.

Subdivision (e). New. Encompasses all types of local agencies.

Subdivision (f) derived from §5780.05 but also based on Government Code §56066.

Subdivision (g) based on §5780.4. Alphabetized the lists. Added "community." Added "habitat conservation" and "open space conservation" to the list of examples but dropped "nature contacting" and "aquatic sports."

Subdivision (h) derived from §5780.6. Changed from "recreation center" to "recreation facility." Split the sentence. Alphabetized the list of examples. Added "community center" to the list. Added "either permanently or temporarily." Added the third sentence regarding joint ownership or use.

Subdivision (i) relies on Elections Code §359.

Subdivision (j) based on Health & Safety Code §13802 (g).

5780.3. (a) This chapter provides the authority for the organization and powers of recreation and park districts. This chapter succeeds the former Chapter 4 (commencing with Section 5780) as added by Chapter 2165 of the Statutes of 1957, as subsequently amended, and any of its statutory predecessors.

(b) Any recreation and park district organized or reorganized pursuant to the former Chapter 4 or any of its statutory predecessors which was in existence on January 1, 2002, shall remain in existence as if it had been organized pursuant to this part. Any zone of a recreation and park district formed pursuant to the former Article 10 (commencing with Section 5788) of the former Chapter 4 or any of its statutory predecessors which was in existence on January 1, 2002, shall remain in existence as if it had been formed pursuant to this chapter.

(c) Any general obligation bond, special tax, benefit assessment, fee, election, ordinance, resolution, regulation, rule, or any other action of a district taken pursuant to the former Chapter 4 or any of its statutory predecessors which was taken before January 1, 2002, shall not be voided solely because of any error, omission, informality, misnomer, or failure to comply strictly with this chapter.

Topic, Derivation, and Comments: Succession.

Subdivision (a) based on Health & Safety Code §13803. This language makes it clear that the new law is the successor to the 1957 law.

Subdivision (b) is based on §5780.11, adding zones and making it clear that districts (and their zones) formed under the 1957 law (or the earlier statutes) continue to exist under the new law.

Subdivision (c) derived from §5780.9 and makes it clear that districts' actions taken under the 1957 law (or the earlier statutes) continue under the new law.

5780.5. This chapter is necessary for the public health, safety, and welfare, and shall be liberally construed to effectuate its purposes.

Topic, Derivation, and Comments: Constitutional Basis and Liberal Construction. Derived from §5780.18, plus new language relating to “public health, safety, and welfare.” Based on Health & Safety Code §13804. If someone sues a district for stretching its statutory authority, this language will be useful in defending the district’s actions. This approach is consistent with the Legislature’s desire to set up districts with enough power to serve local communities and adapt to local circumstances.



5780.7. If any provision of this chapter or the application of any provision of this chapter in any circumstance or to any person, city, county, special district, school district, the state, or any agency or subdivision of the state is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this chapter are severable.

Topic, Derivation, and Comments: Severability. New section. Based on Health & Safety Code §13805. The 1957 law lacks a severability clause, so this language is here just in case a court finds that some piece of the new law is invalid. If that happens, the rest of the new law remains on the books.

5780.9. Any action to determine the validity of the organization of or of any action of a district shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

Topic, Derivation, and Comments: Validation Suits. Derived from §5780.10 and based on Health & Safety Code §13806. The 1957 law provides a 90-day statute of limitations but the more commonly used CCP §860 provides 60 days to file lawsuits challenging public agencies' actions.

**Article 2. Area and Boundaries**

5781. Except as provided in this section, territory, whether incorporated or unincorporated, whether contiguous or noncontiguous, may be included in a district. Territory that is already within a recreation and park district organized pursuant to this chapter shall not be included within another recreation and park district.

Topic, Derivation, and Comments: Area. Derived from §5780.11 and §5785. This language makes it clear that a district may include noncontiguous territory.

5781.1. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code, shall govern any change of organization or reorganization of a district.

Topic, Derivation, and Comments: Boundaries. Derived from §5780.8. This section clearly assigns all boundary change proposals to the Cortese-Knox-Hertzberg Act, the statute that creates local agency formation commissions (LAFCOs) and regulates the boundaries of cities and special districts. This section is the completion of the 1965 effort to shift the boundary provisions of the 1957 law to LAFCOs' control.

**Article 3. Formation**

5782. A new district may be formed pursuant to this article.

Topic, Derivation, and Comments: Authority. Derived from §5781.1. This section formally signals the beginning of the article that lays out the statutory procedures for forming a new district. Unlike several sections of the 1957 law, there is no reference to the “District Organization Law” (formerly Government Code §58500, et seq.) because the Legislature repealed that statute in 1988.

5782.1. (a) A proposal to form a new district may be made by petition. The petition shall do all of the things required by Section 56700 of the Government Code. In addition, the petition shall:

(1) Set forth the methods by which the district will be financed, including but not limited to special taxes, benefit assessments, and fees.

(2) Propose a name for the district.

(3) Specify the method of selecting the initial board of directors, as provided in Article 4 (commencing with Section 5783).

(4) Specify whether the district will have the power of eminent domain.

(b) The petitions, the proponents, and the procedures for certifying the sufficiency of the petitions shall comply with Chapter 2 (commencing with Section 56700) of Part 3 of Division 3 of Title 5 of the Government Code. In the case of any conflict between that chapter and this article, the provisions of this article shall prevail.

(c) The petition shall be signed by not less than 25 percent of the registered voters residing in the area to be included in the district, as determined by the local agency formation commission.

Topic, Derivation, and Comments: Petition and Signatures.

Subdivision (a) derived from §5781.3 (b) and based on Government Code §56700. This section is more detailed than the 1957 law, including a particular requirement for the proponents to explain how they intend to finance their new district.

Subdivision (b) tells the petitioners that they must comply with the petition requirements in the Cortese-Knox-Hertzberg Act.

Subdivision (c) derived from §5781.3 (b) and based on Health & Safety Code §13818. Like the 1957 law, this language uses the 25% standard but note that the base against which the 25% is measured is different. In the 1957 law, the base is the number of votes cast for governor in the last election. In this language, the base is the number of registered voters in the proposed district. This base is identical to the base used by petitions to form new cities, community services districts, and fire protection districts.

5782.3. (a) Before circulating any petition, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for forming the district and the methods by which the district will be financed. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the territory proposed to be included in the district. If the territory proposed to be included in the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

(b) The notice shall be signed by a representative of the proponent, and shall be in substantially the following form:

“Notice of Intent to Circulate Petition

“Notice is hereby given of the intention to circulate a petition proposing to form the \_\_\_\_\_ [name of the district]. The reasons for forming the proposed district are: \_\_\_\_\_ . The method(s) by which the proposed district will be financed are: \_\_\_\_\_ .”

(c) Within five days after the date of publication, the proponent shall file with the executive officer of the local agency formation commission of the principal county a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of the publication.

(d) After the filing required pursuant to subdivision (c), the petition may be circulated for signatures.

Topic, Derivation, and Comments: Notice of Intention. New section, based on Health & Safety Code §13817. Even before the formation petition can be circulated, the proponents must publicly state their intentions and file a statement with LAFCO. However, unlike §13817, this language also requires the proponents to state how the proposed district will be financed. Note that this language prevails over Government Code §56700.4.

5782.5. (a) A proposal to form a new district may also be made by the adoption of a resolution of application by the legislative body of any county or city which contains the territory proposed to be included in the district. Except for the provisions regarding the signers, signatures, and the proponents, a resolution of application shall contain all of the matters specified for a petition in Section 5782.1.

(b) Before adopting a resolution of application, the legislative body shall hold a public hearing on the resolution. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the county or city. At least 20 days before the hearing, the legislative body shall give mailed notice of its hearing to the executive officer of the local agency formation commission of the principal county. The notice shall generally describe the proposed formation of the district and the territory proposed to be included in the district.

(c) At the hearing, the legislative body shall give any person an opportunity to present his or her views on the resolution.

(d) The clerk of the legislative body shall file a certified copy of the resolution of application with the executive officer of the local agency formation commission of the principal county.

Topic, Derivation, and Comments: Application by Resolution. Derived from §5781.3 (a), and based on Health & Safety Code §13821 and Government Code §56654. Any city or county that contains territory in the proposed new district can initiate the formation procedures by adopting a resolution after a noticed public hearing.



5782.7. (a) Once the proponents have filed a sufficient petition or a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Part 3 (commencing with Section 56650) and, notwithstanding Section 57007 of the Government Code, pursuant to Part 4 (commencing with Section 57000) of Division 3 of Title 5 of the Government Code.

(b) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines that the proposed district will have sufficient revenues to carry out its purposes.

(c) Notwithstanding subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue provided that the commission conditions its approval on the concurrent approval of special taxes or benefit assessments that will generate those sufficient revenues. The commission shall provide that if the voters or property owners do not approve the special taxes or benefit assessments, the proposed district shall not be formed.

Topic, Derivation, and Comments: LAFCO Proceedings. New section. The 1957 law is not clear on the sequence of LAFCO's approvals.

Subdivision (a), based on Health & Safety Code §13822, directs LAFCO to proceed with the formation proposal once there is a valid petition or resolution of application.

Subdivision (b) prohibits LAFCO from approving a proposed district if it lacks sufficient revenue. The Working Group was concerned that LAFCOs may bow to local pressure to form a district but then the voters can turn down the taxes or assessments needed to run the new district.

Subdivision (c) requires LAFCO to link the formation with the funding. If the voters reject the funding methods, the formation fails. As the Working Group said, "No dollars, no district."

**Article 4. Selection of the Initial Board of Directors**

5783. The initial board of directors of a district formed on or after January 1, 2002, shall be determined pursuant to this article.

Topic, Derivation, and Comments: Authority. New section. Based on Health & Safety Code §13834, this section clearly explains that this article does not affect any of the existing districts.

5783.1. In the case of a district which contains only unincorporated territory in a single county, the board of directors may be elected or may be appointed by the county board of supervisors which may appoint itself as the district board.

Topic, Derivation, and Comments: Unincorporated territory in one county. Derived from §5781.4 (a) and (c), based on Health & Safety Code §13835. This situation appears to be the most common of the existing districts, most of which contain only unincorporated territory and have their own directly-elected boards of directors.

5783.3. In the case of a district which contains only unincorporated territory in more than one county, the board of directors may be elected or may be appointed by the boards of supervisors of the counties in which the district is located. If the board of directors is appointed by the county boards of supervisors, the boards of supervisors shall appoint directors according to the proportionate share of population of that portion of each county within the district, provided that each board of supervisors shall appoint at least one director.

Topic, Derivation, and Comments: Unincorporated territory in two or more counties. Derived from §5781.4 (b) and based on Health & Safety Code §13836. There may not be any districts like this right now, but this section anticipates that contingency.

5783.5. In the case of a district which contains unincorporated territory and the territory of one or more cities:

(a) The board of directors may be elected or appointed by the county board of supervisors and the city councils in which the district is located. If the board of directors is to be appointed, the board of supervisors and the city council or councils shall appoint directors according to the proportionate share of population that portion of the county and each city within the district, provided that the board of supervisors and each city council shall appoint at least one director. The board of supervisors or city council may appoint one or more of its members to the district board.

(b) Notwithstanding subdivision (a), the county board of supervisors may appoint itself as the board of directors, if the city council of each of the cities consents by resolution.

Topic, Derivation, and Comments: Unincorporated territory and incorporated territory. Derived from §5781.4 (b) and based on Health & Safety Code §13837. Some districts serve cities as well as unincorporated territory, so this section covers that contingency.

5783.7. In the case of a district which includes only incorporated territory within a single city, the board of directors may be elected or appointed by the city council which may appoint itself as the board of directors.

Topic, Derivation, and Comments: Incorporated territory in one city. Derived from §5781.4 (b) and based on Health & Safety Code §13838. At least three districts are currently city-dependent districts: Barstow, Cypress, and Victorville. They are examples of this contingency.

5783.9. In the case of a district which includes only incorporated territory in more than one city, the board of directors may be elected or appointed by the city councils in which the district is located. If the board of directors is appointed, the city councils shall appoint directors according to the proportionate share of population of that portion of each city within the district, provided that each city council shall appoint at least one director. The city council may appoint one or more of its own members to the district board.

Topic, Derivation, and Comments: Incorporated territory in two or more cities. Derived from §5781.4 (b) and based on Health & Safety Code §13839. Although there are no known current examples of this situation, this section anticipates that contingency.

5783.11. (a) In the case of a district where the initial board of directors is to be elected, the elections and the terms of office shall be determined pursuant to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

(b) In the case of a district where the initial board of directors is to be elected, the directors may be elected (1) at large, (2) by divisions, or (3) from divisions.

Topic, Derivation, and Comments: Elections and Terms.

Subdivision (a). Derived from §5781.6. The Uniform District Election Law (UDEL) is a comprehensive statute for all districts' elections. The 1957 law staggers the four-year terms of office for the initial board of directors based on the election results. This section relies on UDEL which requires the initial board of directors to "classify themselves by lot into two classes" (Elections Code §10505). Three directors serve four-year terms, the other two directors serve for two years.

Subdivision (b). New. The Working Group wanted to make it clear that an initial board of directors may be elected by divisions or from divisions, not just at large.



5783.13. In the case of a district where the initial board of directors is to be appointed, the county board of supervisors or the city council which appoints the board of directors shall specify either of the following:

(a) The persons appointed to the board of directors shall serve fixed terms. The directors appointed to the initial board of directors shall classify themselves by lot into two classes, as nearly equal in number as possible, and the terms of office of the class having the greater number shall be four years and the terms of office of the class having the lesser number shall be two years.

(b) The persons appointed to the board of directors shall serve at the pleasure of the county board of supervisors or the city council which made the appointments.

Topic, Derivation, and Comments: Appointments and Terms. Derived from §5781.4 (b) and based on Elections Code §10505 (c).

The appointing authorities can decide whether the directors will serve fixed, four-year terms or will serve at the pleasure of the appointing authority. This decision applies to the entire board of directors; in other words, it's not possible to appoint some people "at pleasure" while others on the same board of directors serve for fixed terms.

Just like cemetery districts and fire protection districts, here is no "recall" provision for directors who are appointed to fixed terms. See the October 19, 2000 research memo.

A recreation and park district that has an appointed board where the members serve for fixed terms meets the definition of "independent special district" under the Cortese-Knox-Hertzberg Local Government Reorganization Act. See Government Code §56044. Independent special districts can participate in selecting representatives to the LAFCO. See Government Code §56332. They also share in paying for the LAFCO's budget. See Government Code §56381 (b).

## **Article 5. Boards of Directors and Officers**

5784. (a) A legislative body known as the board of directors shall govern every district. The board of directors shall establish policies for the operation of the district. The board of directors shall provide for the faithful implementation of those policies which is the responsibility of the employees of the district.

(b) Except as provided in this article, the board of directors consists of five members.

(c) No person shall be a candidate for or be appointed to the board of directors unless he or she is a voter of the district or the proposed district.

(d) Service on a municipal advisory council established pursuant to Section 31010 of the Government Code shall not be considered an incompatible office with service as an elected member of a board of directors.

### Topic, Derivation, and Comments: Board of Directors.

Subdivision (a) derived from §5780.2 and §5782.1, and based on Health & Safety Code §13840. This subdivision must be read in conjunction with §5786.1.

Subdivision (b) derived from §5781.4. Although implied by §5781.4, the 1957 law doesn't explicitly state the size of the board of directors. The initial clause anticipates §5784.1, relating to the North Bakersfield district's seven-member board.

Subdivision (c) derived from §5783.3. However, unlike the 1957 law, this language doesn't allow a nonresident property owner to be elected or appointed to a board of directors. According to the Working Group, there are at least seven districts with directors who are not residents but own property in their districts: Ambrose, Del Rio Woods, Fulton-El Camino, Monte Rio, Rim of the World, Russian River, Southgate. The Working Group wanted to remove this unusual exception but allow those nonresident property owners to continue to serve and continue to run for re-election. See §5784.1 (b).

Subdivision (d) derived from §5781.10. Only the Ambrose district fits this situation.

5784.1. Notwithstanding any other provision of law:

(a) The board of directors of the North Bakersfield Recreation and Park District shall be composed of seven members.

(b) If on December 31, 2001, a member of the board of directors was elected or appointed as a voter of this state and is an owner of real property within the district, pursuant to the former Section 5783.3, that person may continue to serve on that board of directors for the remainder of the term for which he or she was elected or appointed, and that person may be elected or appointed to that board of directors in the future after that term ends, provided that the person continues to be a voter of this state and an owner of real property within the district.

Topic, Derivation, and Comments: Exceptions.

Subdivision (a). Derived from §5781.46. Applies only to the North Bakersfield District.

Subdivision (b). Derived from §5783.3. When the Working Group recommended limiting membership on boards of directors to just persons who were voters of that district, the Working Group also wanted to allow those members who are nonresident property owners to continue to serve and continue to be reelected as long as they qualify under the requirements of the 1957 law. This language is a “grandfather clause” for those directors.

Note: SB 707 had included a subdivision (c) in this section. When the Working Group recommended limiting membership on boards of directors just to persons who were voters of that district, the Working Group acknowledged that the Southgate Recreation and Park District not only elects nonresident property owners but it also elects its board members by divisions. Subdivision (c), as added by SB 707, would have allowed those board members to continue to be reelected by divisions as long as they qualify under the requirements of the 1957 law. This subdivision was another “grandfather clause.” However, after Governor Davis signed SB 707, the Southgate District asked the Senate Local Government Committee to delete subdivision (c). At the District’s request, the Committee’s SB 210 --- the Local Government Omnibus Act of 2001 --- enacted a new version of this section, minus subdivision (c). Governor Davis signed SB 210 into law as Chapter 176 of the Statutes of 2001. Because SB 210 was chaptered after SB 707, the version enacted by SB 210 prevails. Therefore, there is no subdivision (c) in this section.

5784.3. (a) The term of office of each member of a board of directors who has been elected or appointed to a fixed term is four years. Directors shall take office at noon on the first Friday in December following their election or their appointment to a fixed term.

(b) Notwithstanding subdivision (a), in the case of a district formed on or after January 1, 2002, the directors shall serve the terms determined pursuant to Section 5783.11.

(c) Any vacancy in the office of a member appointed to a board of directors shall be filled pursuant to Section 1779 of the Government Code.

(d) Any vacancy in the office of a member elected to a board of directors shall be filled pursuant to Section 1780 of the Government Code.

Topic, Derivation, and Comments: Terms of Office.

Subdivision (a) derived from §5781.6 and §5781.8, and based on Elections Code §10505 (a) and (b). UDEL starts special districts' board members' terms in early December after their November elections. A district with an elected board or an appointed term where the members serve for fixed terms meets the definition of an "independent special district" under the Cortese-Knox-Hertzberg Local Government Reorganization Act. See Government Code §56044. Independent special districts can participate in selecting representatives to the LAFCO. See Government Code §56332. They also share in paying for the LAFCO's budget. See Government Code §56381 (b).

Subdivision (b) derived from §5781.6. This subdivision preserves the exception in §5781.6 for board members who are initially elected to two-year terms.

Subdivision (c) derived from §5781.13 (last sentence) and based on Health & Safety Code §13852 (a). This subdivision links recreation and park districts to the standard procedure in the Government Code for filling vacancies in appointed offices.

Subdivision (d) derived from §5781.12 and §5781.13, and based on Health & Safety Code §13852 (b). This subdivision links recreation and park districts to the standard procedure in the Government Code for filling vacancies in elected offices.

5784.5. If a county board of supervisors or a city council has appointed itself as the board of directors, the board of supervisors or city council may delegate any or all of its powers to a recreation and park commission composed of five commissioners. In the case of a district governed by a board of supervisors, the commissioners may be councilmembers of cities which are located in the district. The board of supervisors or city council shall determine whether the commissioners shall serve at its pleasure or for staggered terms of four years, subject to removal for cause. A commissioner shall be a voter of the district.

Topic, Derivation, and Comments: Commission. New section, based on Health & Safety Code §13844. The Sacramento County Board of Supervisors governs three districts *ex officio* and has appointed commissions to run their day-to-day operations. The 1957 law doesn't contain any explicit authority for recreation and park commissions. This section provides that authority.

5784.7. (a) Within 45 days after their first election and after each general district election or unopposed election, or at the beginning of each new term for members of an appointed board, the board of directors shall meet and elect its officers.

(b) The officers of a board of directors are a chair and vice-chair. A board of directors may create additional officers and elect members to those positions, provided that no member of a board of directors shall hold more than one office.

(c) The board of directors may appoint one of its members as secretary. The board of directors may also employ a clerk to perform the duties of the secretary. If the board of directors does not appoint a secretary, the clerk shall perform the duties of the secretary.

(d) In the case of a district which includes only incorporated territory within a single city, the city treasurer shall act as the district treasurer and shall receive no compensation for the receipt and disbursement of money of the district. In all other cases, the county treasurer of the principal county shall act as the district treasurer and shall receive no compensation for the receipt and disbursement of money of the district.

Topic, Derivation, and Comments: Officers.

Subdivision (a) derived from §5781.14 and based on Health & Safety Code §13853 (a). The 1957 law requires the board of directors to elect its officers within 30 days after November elections. Board members take office on the first Friday in December which could be very close to the 30-day deadline (see §5784.3 [a]). This subdivision gives the board of directors 45 days to elect its officers, avoiding a possible conflict over a tight deadline.

Subdivision (b) derived from §5781.14 and based on Health & Safety Code §13853 (a) and (c). The 1957 law mentions only “a chairman and such other officers.” This subdivision specifically names a vice-chair. It still allows the board of directors to create other officers.

Subdivision (c) is new language, based on Health & Safety Code §13853 (b). The secretary can be one of the members of the board of directors. Alternatively, the board may designate a member as the secretary but hire a clerk to perform the details of the job. If there is no secretary, then the clerk performs the secretary’s duties.

Subdivision (d) derived from §5784.18.

5784.9. (a) Notwithstanding Section 5784.7, a district may establish an alternative depository pursuant to this section.

(b) The board of directors may adopt a resolution to designate a bank or a savings and loan association as the depository of any or all of its funds. The board of directors and the board of supervisors of the principal county shall determine a mutually acceptable date for the transfer of the district's funds to that depository, not to exceed 15 months from the date on which the board of directors adopted its resolution.

(c) If the board of directors does not designate that depository for all of its funds, the board of directors shall designate what funds are to be deposited in that depository. The county treasurer shall be the depository for all funds not so designated.

(d) The charges of any depository designated pursuant to this section shall be a proper expense of the district.

(e) The board of directors shall appoint a person who shall be known as the finance officer, who shall serve at the pleasure of the board of directors. The finance officer may be a member of the board of directors, the general manager, or the office of finance officer may be consolidated with the office of secretary. The board of directors shall fix the amount of and approve the finance officer's bond.

(f) Bond principal and interest and salaries shall be paid when due. Except as provided in subdivision (g), the board of directors shall approve all other claims and demands in an open meeting by a majority of the members of the board of directors.

(g) Warrants drawn in payment of claims and demands approved by the finance officer as conforming to an approved budget need not be approved by the board of directors prior to payment. These claims and demands shall be presented to the board of directors for ratification and approval in the audited comprehensive annual financial report.

(h) The finance officer shall draw the warrants. The warrants shall be signed by either the chair of the board of directors or another member of the board, and by either the secretary or the general manager. The board of directors, by ordinance or resolution, may prescribe an alternative method of drawing and signing warrants, provided that the method adheres to generally accepted accounting principles.

(i) The finance officer shall install and maintain a system of auditing and accounting that shall completely and at all times show the financial condition of the district.

(j) The finance officer shall make annual or more frequent written reports to the board of directors, as the board of directors shall determine, regarding the receipts and disbursements and balances in the accounts that are controlled by the finance officer. The finance officer shall sign the reports and file them with the secretary.

(k) A bank or savings and loan association may act as a depository, paying agent, or fiscal agent for the holding or handling of the district's funds, notwithstanding the fact that a member of the board of directors whose funds are on deposit in that bank or savings and loan association is an officer, employee, or stockholder of that bank or savings and loan association, or of a holding company that owns any of the stock of that bank or savings and loan company.

Topic, Derivation, and Comments: Alternative depository and management of funds. New section based on §5784.40 (added by AB 1905, Rod Pacheco, 2000), Government Code §37302 and §37308 (for cities), and §§61737.01-61737.09 (for community services districts).

Subdivision (a) derived from §5784.40 and Government Code §61737.01. Note that a “depository” is a *person* to whom something is entrusted, while a “depository” is a *place* where something is placed for safekeeping.

Subdivision (b) is based on the first sentence of Government Code §61737.02. Community services districts do not need the county supervisors' approval before they designate an alternative depository. In contrast, §5784.40 requires the county supervisors' “prior approval.” This subdivision strikes a balance, allowing a district to act unilaterally but work out the timing for the transfer with the county government over the next five quarters (15 months).

Subdivision (c) is based on the second and third sentences of Government Code §61737.02.

Subdivision (d) is based on Government Code §61737.03.

Subdivision (e) is based on Government Code §61737.04.

Subdivision (f) is based on Government Code §61737.05.

Subdivision (g) is based on Government Code §37208 (b) and (c). Derived from the statutes for cities, this provision allows the finance officer to pay usual expenses without first obtaining separate approvals from the board of directors. However, the finance officer must report these expenditures in the annual audit, preserving the board of directors' oversight powers.

Subdivision (h) is based on Government Code §61737.06 and the third sentence of Government Code §37203. Like the statute for cities, this subdivision allows a board of directors to create its own procedure for issuing warrants, provided that the method meets the generally accepted accounting principles.

Subdivision (i) is based on Government Code §61737.07.

Subdivision (j) is based on Government Code §61737.08.

Subdivision (k) is based on Government Code §61737.09.



5784.11. A board of directors shall meet at least once every three months. Meetings of the board of directors are subject to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Meetings. Derived from §5781.14 and based on Health & Safety Code §13855. The 1957 law refers to only three specific sections of the Brown Act. This section makes it clear that districts must comply with the entire Brown Act.

5784.13. (a) A majority of the board of directors shall constitute a quorum for the transaction of business.

(b) The board of directors shall act only by ordinance, resolution, or motion.

(c) Except as otherwise specifically provided to the contrary in this chapter, a recorded majority vote of the total membership of the board of directors is required on each action.

(d) The board of directors shall keep a record of all its acts, including financial transactions.

(e) The board of directors shall adopt rules for its proceedings.

Topic, Derivation, and Comments: Actions.

Subdivision (a) derived from §5782.16.

Subdivision (b) derived from §5782.17.

Subdivision (c) derived from §5782.17. This subdivision includes an exception clause which does not appear in the 1957 law. There are a few instances where the new statute requires board of directors to act by 2/3 vote. For example, see §5788.9 (c) which requires a 4/5 vote to move money out of a reserve fund, and §5788.21 (c) which requires a 4/5 vote to issue promissory notes. Note that, unlike the 1957 law, this language requires a board of directors to act by a majority vote of its total membership. For example, if only three members are present (a bare quorum), an action would still require a 3-0 vote.

Subdivision (d) derived from 5782.14.

Subdivision (e) derived from §5782.

5784.15. (a) The board of directors may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board. The board of directors, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.

(b) The maximum compensation in any calendar month shall be five hundred dollars (\$500).

(c) In addition, members of the board of directors may receive their actual and necessary traveling and incidental expenses incurred while on official business.

(d) A member of the board of directors may waive the compensation.

(e) For the purposes of this section, a meeting of the board of directors includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.

Topic, Derivation, and Comments: Stipends. Subdivisions (a), (b), (d), and (e) derived from §5782.18.

Subdivisions (a) retains the compensation level which the Legislature last changed in 1990. After much discussion, the Working Group agreed to language allowing district boards to raise the stipends for attending board meetings, just like water districts (see Water Code §20200). Raising the amount of a stipend requires a board to adopt an ordinance, and there's a 60-day period during which voters can call a referendum election on the increase. The Legislature extended this procedure to sanitary, sanitation, and fire districts (SB 1559 and SB 1756, Kelley, 2000).

Subdivision (b) retains the \$500 a month limit set in 1990. Even if a board increases its meeting stipend under subdivision (a), the \$500 a month cap still applies.

Subdivision (c) derived from §5782.19.

Subdivision (e) is similar to the definition in current law but includes references to "regular meetings," "special meetings," and "emergency meetings" which are terms used in the Brown Act (see Government Code §54954, §54956, and §54956.5).

## Article 6. Reorganizing the Board of Directors

5785. (a) In the case of a district with an elected board of directors, the directors may be elected:

- (1) At large.
- (2) By divisions.
- (3) From divisions.

(b) As used in this article:

(1) "By divisions" means the election of each member of the board of directors by voters of the division alone.

(2) "From divisions" means the election of members of the board of directors who are residents of the division from which they are elected by the voters of the entire district.

(c) A board of directors may be elected by any one of the methods described in subdivision (a) if a majority of the voters voting upon the question are in favor of the question at a general district or special election.

(d) The board of directors may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at least 25 percent of the registered voters of the district, the board of directors shall adopt a resolution placing the question on the ballot.

(e) If the question is submitted to the voters at a general district election, the notice required by Section 12115 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(f) If the majority of voters voting upon the question approves the election of directors either by divisions or from divisions, the board of directors shall promptly adopt a resolution dividing the district into five divisions. The resolution shall assign a number to each division. Using the last decennial census as a basis, the divisions shall be as nearly equal in population as possible. In establishing the boundaries of the divisions, the district board may give consideration to the following factors:

- (1) Topography.
- (2) Geography.
- (3) Cohesiveness, contiguity, integrity, and compactness of territory.
- (4) Community of interests of the divisions.

(g) If the majority of voters voting upon the question approves of the election of directors either by divisions or from divisions, the members of the board of directors shall be elected by divisions or from divisions. Each member elected by division or from division shall be a resident of the election division by which or from which he or she is elected. At the district general election following the approval by the voters of the election of directors either by divisions or from divisions, the board of directors shall assign vacancies on the board of directors created by the expiration of terms to the respective divisions and the vacancies shall be filled either by or from those divisions.

(h) If the majority of voters voting on the question approves of the election of directors at large, the board of directors shall promptly adopt a resolution dissolving the divisions which had existed.

Topic, Derivation, and Comments: Elections. Derived from §5781.20, §5781.21 and based on Health & Safety Code §13846 and Government Code §34871.

The 1957 law requires the county board of supervisors to create divisions if asked by the board of directors or by a petition signed by a majority of the district's voters. This section, based on Health & Safety Code §13846, requires majority voter approval. The question goes before the voters either by resolution of the board of directors or by a petition signed by 25% of the district's voters.

Subdivision (a) gives districts three ways to elect their boards of directors. The 1957 law allows districts to elect their boards of directors "by divisions" (§5781.20) but that statute also refers to elections "from divisions" (§5781.23) which is a different arrangement (see Government Code §34871 pertaining to the election of city councilmembers "by districts" and "from districts"). The Working Group wanted districts to have all three options.

Subdivision (b) based on the definitions in Government Code §34871, pertaining to the election of city councilmembers "by districts" and "from districts."

Subdivision (c) based on Health & Safety Code §13846 (a).

Subdivision (d) based on Health & Safety Code §13846 (c).

Subdivision (e) based on Health & Safety Code §13846 (d).

Subdivision (f) based on Health & Safety Code §13846 (e). Note that unlike the current §5781.21, this subdivision doesn't permit divisions based on equal area. That's unconstitutional.

Subdivision (g) based on Health & Safety Code §13846 (f).

Subdivision (h) based on Health & Safety Code §13846 (g).

5785.1. (a) In the case of a board of directors elected by divisions or from divisions, the board of directors shall adjust the boundaries of the divisions before November 1 of the year following the year in which each decennial census is taken. If, at any time between each decennial census, a change of organization or reorganization alters the population of the district, the board of directors shall reexamine the boundaries of its divisions. If the board of directors finds that the population of any division has varied so that the divisions no longer meet the criteria specified in subdivision (f) of Section 5785, the board of directors shall adjust the boundaries of the divisions so that the divisions shall be as nearly equal in population as possible. The board of directors shall make this change within 60 days of the effective date of the change of organization or reorganization.

(b) In the case of a board of directors which has been appointed by more than one county board of supervisors or city council, the board of directors shall adjust the proportionate distribution of the appointments before November 1 of the year following the year in which each decennial census is taken. If at any time between each decennial census, a change of organization or reorganization alters the population of the district, the board of directors shall reexamine the proportionate distribution of appointments. If the board of directors finds that the population of the district has varied so that the distribution of appointments is no longer proportionate, the board of directors shall adjust the proportionate distribution of appointments accordingly. The board of directors shall make this change within 60 days of the effective date of the change of organization or reorganization. The county board of supervisors or city council shall appoint members to the board of directors as vacancies occur.

Topic, Derivation, and Comments: Reapportionment.

Subdivision (a) is new language, based on Health & Safety Code §13847. The board of directors must follow these procedures for reapportioning their own election divisions after a federal census or after significant boundary changes.

Subdivision (b) derived from §5781. The board of directors follows these procedures for reapportioning an appointed board after a federal census or after significant boundary changes.

5785.3. If a majority of the voters voting on the question at a general district or special district election are in favor, a district that has an appointed board of directors shall have an elected board of directors, or a district that has an elected board of directors shall have an appointed board of directors.

(b) The board of directors may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at least 25 percent of the registered voters of the district, the board of directors shall adopt a resolution placing the question on the ballot.

(c) If the question is submitted to the voters at a general district election, the notice required by Section 12115 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(d) If a majority of voters voting upon the question approves of changing from an appointed board of directors to an elected board of directors, the members of the board of directors shall be elected at the next general district election. If a majority of voters voting upon the question approves of changing from an elected board of directors to an appointed board of directors, members shall be appointed to the board of directors as vacancies occur.

Topic, Derivation, and Comments: Appointed to Elected and Reverse. New language, based on Health & Safety Code §13848. The 1957 law contains three sections that allow specific districts to convert their appointed boards of directors into elected boards (see §5783.11, §5783.12, and §5783.13). Those separate sections are no longer needed because of this general provision.

5785.5. (a) Before circulating any petition pursuant to Section 5785 or Section 5785.3, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the district. If the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each county.

(b) The notice shall be signed by at least one, but not more than three, proponents and shall be in substantially the following form:

“Notice of Intent to Circulate Petition

“Notice is hereby given of the intention to circulate a petition affecting the Board of Directors of the \_\_\_\_\_ (name of the district). The petition proposes that \_\_\_\_\_ (description of the proposal).”

(c) Within five days after the date of publication, the proponents shall file with the secretary of the board of directors a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication.

(d) After the filing required pursuant to subdivision (c), the petition may be circulated for signatures.

(e) Sections 100 and 104 of the Elections Code shall govern the signing of the petition and the format of the petition.

(f) A petition may consist of a single instrument or separate counterparts. The proponents shall file the petition, together with all counterparts, with the secretary of the board of directors. The secretary shall not accept a petition for filing unless the signatures have been secured within six months of the date on which the first signature was obtained and the proponents submitted the petition to the secretary for filing within 60 days after the last signature was obtained.

(g) Within 30 days after the date of filing a petition, the secretary of the board of directors shall cause the petition to be examined by the county elections official, in accordance with Section 9113 to 9115, inclusive, of the Elections Code, and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

(h) If the certificate of the secretary shows the petition to be insufficient, the secretary shall immediately give notice by certified mail of the insufficiency to the proponents. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, the proponents may file with the secretary a supplemental petition bearing additional signatures.

(i) Within 10 days after the date of filing a supplemental petition, the secretary shall examine the supplemental petition and certify the results in writing of his or her examination.



(j) The secretary shall sign and date a certificate of sufficiency. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the secretary's examination. The secretary shall mail a copy of the certificate of sufficiency to the proponents.

(k) Once the proponents have filed a sufficient petition, the board of directors shall take the actions required pursuant to Section 5785 or 5785.3.

Topic, Derivation, and Comments: Petition Procedures. New section. Based on Health & Safety Code §13849, §13850, and §13851. This section explains how the proponents can force a board of directors to call an election on proposals to reorganize an existing board of directors. These procedures are similar to the procedures for qualifying petitions to form new districts. Note that the secretary of the board of directors has several duties. If the district has both a secretary and a clerk, these duties can be delegated to the clerk. If the district doesn't have a secretary, then the clerk carries out these duties. See §5784.7 (c).

## Article 7. Powers and Duties

5786. A district may:

(a) Organize, promote, conduct, and advertise programs of community recreation, including but not limited to parks and open space, parking, transportation, and other services that improve the community's quality of life.

(b) Establish systems of recreation and recreation facilities, including but not limited to parks and open space.

(c) Acquire, construct, improve, maintain, and operate recreation facilities, including but not limited to parks and open space, both inside and beyond the district's boundaries.

Topic, Derivation, and Comments: District Services. Derived from §5782.2. This section lists the districts' substantive powers.

Subdivision (a) derived from §5782.2 (a) and (d). Some districts operate bus systems. The Jurupa district may be an example. Note the addition of "parking." Note the added phrase, "other services that improve the community's quality of life."

Subdivision (b) derived from §5782.2 (b). Note that the language uses the term "recreation facilities" instead of "recreation centers." See the definition at §5780.1 (h).

Subdivision (c) derived from §5782.2 (c) with minor editing changes. Some districts operate camps outside their district boundaries. The Livermore Area district, for example, has a camp near Lake Tahoe.

Note that even though the term "recreation facilities" as defined in §5780.1 (h) already includes both "parks" and "open space," the Working Group wanted those terms repeated for emphasis in all three subdivisions.

5786.1. A district shall have and may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this chapter, including, but not limited to, the following powers:

- (a) To sue and be sued.
- (b) To acquire any real or personal property within or outside the district, to hold, manage, occupy, dispose of, convey and encumber the property, and to create a leasehold interest in the property for the benefit of the district.
- (c) To acquire any real or personal property by eminent domain within the boundaries of the district, pursuant to Section 5786.5.
- (d) To appoint necessary employees, to define their qualifications and duties, and to provide a schedule of compensation for performance of their duties.
- (e) To engage counsel and other professional services.
- (f) To enter into and perform all necessary contracts pursuant to Article 53.5 (commencing with Section 20815) of Chapter 1 of Part 3 of the Public Contract Code.
- (g) To borrow money, give security therefor, and purchase on contract, as provided in this chapter.
- (h) To adopt a seal and alter it at pleasure.
- (i) To adopt ordinances following the procedures of Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.
- (j) To adopt and enforce rules and regulations for the administration, operation, use and maintenance of the recreation facilities, programs, and services listed in Section 5786.
- (k) To enter joint powers agreements pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.
- (l) To provide insurance pursuant to Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.
- (m) To perform any acts necessary to carry out the provisions of this chapter.

Topic, Derivation, and Comments: Corporate Powers. Derived from §5782.5 and based on Health & Safety Code §13861. This section lists the districts' corporate powers

Subdivision (a) derived from §5782.5 (a).

Subdivision (b) derived from §5782.5 (b) and based on Health & Safety Code §13861 (b).

Subdivision (c) derived from §5782.5 (c) but with a cross-reference to a new section that spells out the procedures for using eminent domain within the district's boundaries.

Subdivision (d) derived from §5782.5 (d) and based on Health & Safety Code §13861 (d). Also see §5786.17 regarding personnel systems.

Subdivision (e) derived from §5782.5 (e). In 55 Ops.Cal.Atty.Gen. 94 (1972), the Attorney General held that "there are no statutory recommended procedures a recreation and park district should follow to obtain legal counsel."

Subdivision (f) derived from §5782.5 (f) but with a cross-reference to a new provision of the Public Contract Code.

Subdivision (g) derived from §5782.5 (g), first clause. See §5788.17 (b) (short-term borrowing) and §5788.21 (promissory notes).

Subdivision (h) derived from §5782.13 and based on Health & Safety Code §13861 (g)

Subdivision (i) based on Health & Safety Code §13861 (h)

Subdivision (j) based on Health & Safety Code §13861 (i). Note the cross-reference to §5786.

Subdivision (k) based on Health & Safety Code §13861 (j).

Subdivision (l) based on Health & Safety Code §13861 (k).

Subdivision (m) derived from §5782.5 (g), second clause.

5786.3. When acquiring, improving, or using any real property, a district shall comply with Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5, and Article 7 (commencing with Section 65400) of Chapter 1 of Division 1 of Title 7 of the Government Code.

Topic, Derivation, and Comments: Conformity to Local Ordinances and Plans. New.

Current law requires most special districts to comply with the building ordinances and zoning ordinances of the underlying city or county (Government Code §53090). However, state law allows a special district to override those ordinances by a 4/5 vote of the district's board (Government Code §53096 [a]).

Current law requires most special districts to comply with the general plan of the underlying city or county (Government Code §65400). However, state law allows a special district to overrule the local general plan by majority vote of the district's board (Government Code §65402 [c]).

5786.5. (a) If a district was formed without the power of eminent domain, the district shall not exercise eminent domain to acquire any real or personal property, except as provided by subdivision (d).

(b) If a district was formed with the power to acquire any real or personal property by eminent domain within the boundaries of the district, the district shall comply with the requirements of the Eminent Domain Law, Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

(c) In addition to the requirements imposed by subdivision (b), before a district may exercise the power of eminent domain, it shall first mail a notice to the city council if the property is located in incorporated territory or the county board of supervisors if the property is located in unincorporated territory. The district shall notify the property owner of the district's request to the city council or county board of supervisors. The district shall mail the notice to the property owner at least 20 days before the date on which the city council or county board of supervisors will act on the district's request.

(d) (1) If a district was formed with the power to acquire real or personal property by the power of eminent domain, it shall not exercise that power if a majority of the voters voting upon the question are in favor of the question at a general district or special election. If a district was formed without the power to acquire real or personal property by the power of eminent domain, it may exercise that power if a majority of the voters voting upon the question are in favor of the question at a general district or special election.

(2) The board of directors may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at least 25 percent of the registered voters of the district, the board of directors shall adopt a resolution placing the question on the ballot.

(3) If the question is submitted to the voters at a general district election, the notice required by Section 12115 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(4) Before circulating any petition pursuant to this subdivision, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the district. If the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each county.

(5) The notice shall be signed by at least one, but not more than three, proponents and shall be in substantially the following form:

“Notice of Intent to Circulate Petition

“Notice is hereby given of the intention to circulate a petition affecting power of eminent domain of the \_\_\_\_\_ (name of the district). The petition proposes that \_\_\_\_\_ (description of the proposal).”

(6) Within five days after the date of publication, the proponents shall file with the secretary of the board of directors a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication. After the filing, the petition may be circulated for signatures.

(7) Sections 100 and 104 of the Elections Code shall govern the signing of the petition and the format of the petition. A petition may consist of a single instrument or separate counterparts. The proponents shall file the petition, together with all counterparts, with the secretary of the board of directors. The secretary shall not accept a petition for filing unless the signatures have been secured within six months of the date on which the first signature was obtained and the proponents submitted the petition to the secretary for filing within 60 days after the last signature was obtained.

(8) Within 30 days after the date of filing a petition, the secretary of the board of directors shall cause the petition to be examined by the county elections official, in accordance with Section 9113 to 9115, inclusive, of the Elections Code, and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

(9) If the certificate of the secretary shows the petition to be insufficient, the secretary shall immediately give notice by certified mail of the insufficiency to the proponents. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, the proponents may file with the secretary a supplemental petition bearing additional signatures.

(10) Within 10 days after the date of filing a supplemental petition, the secretary shall examine the supplemental petition and certify the results in writing of his or her examination.

(11) The secretary shall sign and date a certificate of sufficiency. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the secretary’s examination. The secretary shall mail a copy of the certificate of sufficiency to the proponents.

(12) Once the proponents have file a sufficient petition, the board of directors shall adopt the resolution required by paragraph (2).

Topic, Derivation, and Comments: Eminent Domain. Derived from §5782.5 (c) and §5790.

Subdivision (a) derived from §5790. This language connects to §5782.1 (a) (4) and §5786.1 (c).

Subdivision (b) derived from §5782.5 (c) with the addition of the cross-reference to the Eminent Domain Law.

Subdivision (c) derived from §5782.5 (c). Just as in the 1957 law, a district must get prior approval from the underlying city or county (i.e., its “supervising authority) before using eminent domain. This language also responds to Conejo Recreation and Park District v. Frank W. Armstrong (1981) 114 Cal.App. 3d 1016. In that decision, the court held that a property owner was entitled to notice of the board of supervisors’ consideration of the district’s request to use eminent domain. However, footnote 4 in the Conejo decision says that because “no notice whatsoever was attempted in this case, we [the court] do not deem it necessary to delineate what type of notice would have been adequate.” This language creates an adequate notice procedure.

Subdivision (d) requires a district with eminent domain authority to surrender that power and allows a district formed without eminent domain to obtain that power, with majority voter approval. This language relies on the procedures in §5785 and §5785.5.



5786.7. Notwithstanding any other provision of law:

(a) If a majority of the voters voting on the question at a general district or special district election are in favor, the Parker Dam Recreation and Park District may:

(1) Purchase or lease electric power from any public agency or private entity for use within the district's boundaries.

(2) Acquire water and water rights and do any act necessary to furnish sufficient water for beneficial use within the district's boundaries.

(3) Sell, dispose of, and distribute water and electric power for use within the district's boundaries.

(b) Provided that the authority to exercise these powers is approved by the local agency formation commission and conforms to Article XIII C of the California Constitution, the Camp Meeker Recreation and Park District may exercise the powers of a county water district pursuant to:

(1) Article 1 (commencing with Section 31000) to Article 9 (commencing with Section 31100), inclusive, of Part 5 of Division 12 of the Water Code.

(2) Part 6 (commencing with Section 31300) of Division 12 of the Water Code.

(3) Part 7 (commencing with Section 31650) of Division 12 of the Water Code.

(c) The Lucerne Recreation and Park District may exercise any of the powers, functions, and duties of a fire protection district pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code.

Topic, Derivation, and Comments: Special Powers. This section lists the special powers that the Legislature has give to three particular districts.

Subdivision (a) derived from §5782.25. Does the Parker Dam district provide these services?

Subdivision (b) derived from §5782.27. The Camp Meeker district received LAFCO approval and already provides these services.

Subdivision (c) derived from §5782.22. The Lucerne district is the only recreation and park district that has a fire department.

5786.9. (a) A district shall have perpetual succession.

(b) A board of directors may, by a four-fifths vote of its total membership, adopt a resolution to change the name of the district. The resolution shall comply with the requirements of Chapter 23 (commencing with Section 7530) of Division 7 of Title 1 of the Government Code. The board of directors shall not change the name of the district to the name of any living individual. Within 10 days of its adoption, the board of directors shall file a copy of its resolution with the Secretary of State, the county clerk, the board of supervisors, and the local agency formation commission of each county in which the district is located.

(c) Unless another provision of law requires a longer retention period, a district may destroy or otherwise dispose of any paper or electronic document filed with or submitted to the district after one year, unless the board of directors determines that there is a need for its retention. In determining whether there is a need for retaining a document, the board of directors shall consider future public need, the effect on statutes of limitation, and historical significance.

Topic, Derivation, and Comments: Basic Operations.

Subdivision (a) derived from §5782.4. This declaration of perpetual succession is a standard provision in special districts' statutes. It assures investors that the agency won't disappear, leaving them without recourse.

Subdivision (b) derived from §5782.15 and based on Government Code §34502 and §34503, and Health & Safety Code §13876. Note that the vote required to change a district's name increased from a simple majority of the board of directors to a 4/5 vote. The language retains the prohibition against naming a district after a living person.

Subdivision (c) is new and is based on Health & Safety Code §13868 (b) and Government Code §50115. After a year, districts can dispose of documents (whether paper or electronic) that others have given them.

5786.11. (a) A district may cooperate with any city, county, special district, school district, state agency, or federal agency to carry out the purposes and intent of this chapter. To that end, a district may enter into agreements with those other public agencies to do any and all things necessary or convenient in carrying out the purposes and intent of this chapter.

(b) A district may jointly acquire, construct, improve, maintain, and operate recreation facilities and programs of community recreation with any other public agency. Nothing in this chapter shall be construed to prohibit any joint or cooperative action with other public agencies.

Topic, Derivation, and Comments: Cooperative Action. Derived from §5782.3 with minor editing.

5786.13. A district may contract with other public agencies to provide recreation facilities and programs of community recreation within the district's boundaries. A district may contract with other public agencies to provide recreation facilities and programs of community recreation within the boundaries of other public agencies.

Topic, Derivation, and Comments: Contracts With Other Agencies. Derived from §5782.6. This section allows a district to contract-out and it also allows a district to deliver services and programs to other agencies ("contracting-in").

5786.15. (a) Each district shall adopt policies and procedures, including bidding regulations, governing the purchase of supplies and equipment. Each district shall adopt these policies and procedures by rule or regulation pursuant to Article 7 (commencing with Section 54201) of Chapter 5 of Division 2 of Title 5 of the Government Code.

(b) A district may request the State Department of General Services to make purchases of materials, equipment, or supplies on its behalf pursuant to Section 10324 of the Public Contract Code.

(c) A district may request the purchasing agent of the principal county to make purchases of materials, equipment, or supplies on its behalf, pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

(d) A district may request the purchasing agent of the principal county to contract with persons to provide recreation facilities and programs of community recreation, pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code. The district shall be responsible for and maintain control over those recreational facilities and programs of community recreation.

(e) A district may lease or rent private vehicles or equipment owned by district employees.

Topic, Derivation, and Comments: Contracts.

Subdivision (a) based on Government Code §54202 and §54204 which require all special districts to adopt written purchasing policies.

Subdivision (b) based on Government Code §54205 which allows all local agencies to use the state's purchasing systems.

Subdivision (c) is new. The 1957 law allows districts to use the county's purchasing agent to contract out for "recreation facilities and activities" (see §5782.65). That concept continues in subdivision (d), below. The language in this subdivision is broader, allowing a district to use the county's purchasing agent to buy materials, equipment, or supplies, just as the district can use the state's purchasing system (see subdivision [b], above).

Subdivision (d) derived from §5782.65, with the added cross-reference back to the law relating to counties' purchasing agents. For smaller counties with populations under 200,000, the dollar limit for county purchasing agents is \$10,000 (Government Code §25502.5). In bigger counties, the purchasing agent's limit is \$100,000 (Government Code §25502.5). The second sentence carries over from the 1957 law in light of the 1958 Attorney General's opinion that requires districts' contracts to maintain control over facilities and programs (32 Ops.Cal.Atty.Gen. 3).

Subdivision (e) derived from §5782.9.

5786.17. (a) Violation of any rule, regulation, or ordinance adopted by a board of directors is a misdemeanor punishable pursuant to Section 19 of the Penal Code.

(b) Any citation issued by a district for violation of a rule, regulation, or ordinance adopted by a board of directors may be processed as an infraction pursuant to subdivision (d) of Section 17 of the Penal Code.

(c) To protect property and to preserve the peace at recreation facilities and other property owned or managed by a district, the board of directors may confer on designated uniformed district employees the power to issue citations for misdemeanor and infraction violations of state law, city or county ordinances, or district rules, regulations, or ordinances when the violation is committed within a recreation facility and in the presence of the employee issuing the citation. District employees shall issue citations pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.

Topic, Derivation, and Comments: Misdemeanors and Infractions.

Subdivision (a) derived from §5782.21. Note that instead of specifying the penalties as in the 1957 law, this language cross-references the standard Penal Code provisions for misdemeanors.

Subdivision (b) is new language and is based on Health & Safety Code §13871 (a). Instead of prosecuting a violation as a misdemeanor, a district can treat the violation as an infraction by following the standard Penal Code procedures.

Subdivision (c) derived from §5782.26. Note that the language now refers to “recreation facilities” and not just “parks.”

5786.19. (a) The Meyers-Milias-Brown Act, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code applies to all districts.

(b) A board of directors may adopt an ordinance establishing an employee relations system which may include but is not limited to a civil service system or a merit system.

(c) With the prior permission of the board of supervisors of the principal county, or in the case of a district which contains no unincorporated territory with the prior permission of the city council, a board of directors may adopt an ordinance that makes the employees of the district subject to the employee relations system of the principal county or that city. The board of directors may adopt an ordinance that withdraws the employees of the district from the employee relations system of the principal county or that city. A district in which the employees of the district are subject to the employee relations system of the principal county or that city shall receive employee relations services at cost from the county or city.

Topic, Derivation, and Comments: Employee Relations.

Subdivision (a) is new language which cross-references the Meyers-Milias-Brown Act. The Legislature passed that statewide statute for all local agencies in 1963 but never linked it to the 1957 law.

Subdivisions (b) and (c) derived from §5782.7, with minor editing.

5786.21. If a county board of supervisors has appointed itself as the board of directors and the county has by ordinance provided a civil service system:

(a) A county employee holding a classified civil service position for which eligibility has been established by a competitive examination and certification, and which is similar in grade or class to a district position, shall, at the district's request, be certified by the county civil service commission as being eligible to transfer to and hold that position in the district with the same status and without further examination.

(b) A district employee holding a classified civil service position for which eligibility has been established by a competitive examination and certification, and which is similar in grade or class to a county position, shall, at the county's request, be certified by the county civil service commission as being eligible to transfer to and hold that position in the county with the same status and without further examination.

(c) Any person entitled to participate in promotional examinations for classified civil service positions in either the county or the district shall be entitled to participate in promotional examinations for classified civil service positions for both the county and the district, pursuant to the civil service commission's rules, and to be certified for those positions by the county civil service commission or board of supervisors, and to be appointed to those positions.

Topic, Derivation, and Comments: Civil Service Reciprocity. Derived from §5782.7.1. The Legislature added this language in 1963 but it's not clear whether any districts still use it.



5786.23. (a) This section shall apply only to a district where all of the following apply:

(1) The county board of supervisors has appointed itself as the board of directors.

(2) The county has by ordinance provided a civil service system.

(3) The county operates under a freeholders' charter which requires that in the fixing of salaries or wages for county employees subject to the county's civil service system, the board of supervisors shall provide a salary or wage at least equal to the prevailing salary or wage for the same quality of service rendered to private persons under similar employment, if the prevailing salary or wage can be ascertained.

(b) In fixing the salary or wage for district employees subject to the county's civil service system, the board of directors shall provide a salary or wage equal to the salary or wage paid to county employees for the same quality of service.

Topic, Derivation, and Comments: Salaries Paid By County-Dependent Districts in Charter Counties. Derived from §5782.7.2, with minor editing. The Legislature added this language in 1963 but it's not clear whether any of the three charter counties with dependent districts (i.e., Los Angeles, Sacramento, and San Bernardino counties) use it.

5786.25. A board of directors may require any employee or officer to be bonded. The district shall pay the cost of the bonds.

Topic, Derivation, and Comments: Employee Bonds. Derived from §5782.8. Note that this language also applies to “officers” in light of the statutory provision that allows the board of directors to appoint a finance director to manage the district’s funds (see §5784.9 [e]).

5786.27. A board of directors may provide for any programs for the benefit of its employees and members of the board of directors pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Benefits. Derived from §5782.10 and §5782.11, and based on Health & Safety Code §13968. Rather than list all of the various benefit programs that a district might offer, this language cross-references the existing statute that allows all local governments to provide benefits.

5786.29. A district may authorize the members of its board of directors and its employees to attend professional or vocational meetings and pay their actual and necessary traveling and incidental expenses while on official business.

Topic, Derivation, and Comments: Professional or Vocational Meetings. Derived from §5782.12 and based on Health & Safety Code §13866.

5786.31. Whenever the boundaries of a district or a zone change, or whenever the board of directors levies a special tax, benefit assessment, or a tax to pay for general obligation bonds, the district shall comply with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Filing Boundaries, Taxes, and Assessments. Derived from §5780.13.

**Article 8. Elections**

5787. Except as otherwise provided in this chapter, districts are subject to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

Topic, Derivation, and Comments: Elections Follow UDEL. Derived from §5783.6.

5787.1. A board of directors may require that the election of members to the board of directors shall be held on the same day as the statewide general election pursuant to Section 10404 of the Elections Code.

Topic, Derivation, and Comments: Timing of Elections. Derived from §5783.6 and based on Health & Safety Code §13886.

5787.3. If the proposition on the question of formation fails, the county or counties shall pay the expenses of the election. If the proposition on the question of formation passes, the expense shall be a charge against the district and repaid to the county or counties from the first moneys collected by the district. The expense of all other elections shall be a charge against the district.

Topic, Derivation, and Comments: Paying for Elections. Derived from §5783.5. Minor editing to avoid the passive voice.



**Article 9. Finance**

5788. On or before July 1 of each year, the board of directors shall adopt a preliminary budget which shall conform to the accounting and budgeting procedures for special districts contained in Subchapter 3 (commencing with Section 1031.1) of, and Article 1 (commencing with Section 1121) of Subchapter 4 of Division 2 of Title 2 of the California Code of Regulations. The board of directors may divide the preliminary budget into categories, including but not limited to:

- (a) Maintenance and operation.
- (b) Employee compensation.
- (c) Capital outlay.
- (d) Interest and redemption for indebtedness.
- (e) Restricted reserve for capital outlay.
- (f) Restricted reserve for contingencies.
- (g) Unallocated general reserve.

Topic, Derivation, and Comments: Preliminary Budget. Derived from §5784. The additional reference to the current state regulations for special districts is based on Health & Safety Code §13890. Note the changes in the list of budget categories.

5788.1. (a) On or before July 1 of each year, the board of directors shall publish a notice stating all of the following:

(1) That it has adopted a preliminary budget which is available for inspection at a time and place within the district specified in the notice.

(2) The date, time, and place when the board of directors will meet to adopt the final budget and that any person may appear and be heard regarding any item in the budget for regarding the addition of other items.

(b) The board of directors shall publish the notice at least two weeks before the hearing in at least one newspaper of general circulation in the district pursuant to Section 6061 of the Government Code.

Topic, Derivation, and Comments: Notice of Budget Hearing. Derived from §5784.1 and based on Health & Safety Code §13893.

5788.3. At the time and place specified for the meeting, any person may appear and be heard regarding any item in the budget for regarding the addition of other items. The hearing on the budget may be continued from time to time.

Topic, Derivation, and Comments: Budget Hearing. Derived from §5784.2 and §5784.3, and based on Health & Safety Code §13894.

5788.5. On or before August 30 of each year, after making any changes in the preliminary budget, the board of directors shall adopt a final budget. The board of directors shall forward a copy of the final budget to the auditor of each county in which the district is located.

Topic, Derivation, and Comments: Final Budget. Derived from §5784.4 and based on Health & Safety Code §13895. Note that the language extends the deadline from the current August 10 to August 30, to accommodate the districts with boards of directors that meet later each month. The board of directors of the Fulton-El Camino district, for example, meets during the third week of each month.

5788.7. At any regular meeting or properly noticed special meeting after the adoption of its final budget, the board of directors may adopt a resolution amending the budget and ordering the transfer of funds between categories, other than transfers from the restricted reserve for capital outlay and the restricted reserve for contingencies.

Topic, Derivation, and Comments: Budget Transfers. Derived from §5784.9. See §5788.9 for the authority to transfer money from the restricted reserves.

5788.9. (a) In its annual budget, the board of directors may establish a restricted reserve for capital outlay and a restricted reserve for contingencies. When the board of directors establishes a restricted reserve, it shall declare the exclusive purposes for which the funds in the reserve may be spent. The funds in the restricted reserve shall be spent only for the exclusive purposes for which the board of directors established the restricted reserve. The reserves shall be maintained according to generally accepted accounting principles.

(b) Any time after the establishment of a restricted reserve, the board of directors may transfer any funds to that restricted reserve.

(c) If the board of directors finds that the funds in a restricted reserve are no longer required for the purpose for which the restricted reserve was established, the board of directors may, by a four-fifths vote of the total membership of the board of directors, discontinue the restricted reserve or transfer any funds that are no longer required from the restricted reserve to the district's general fund.

Topic, Derivation, and Comments: Restricted Reserves.

Subdivision (a) derived from §5784.10 and §5784.12.

Subdivision (b) derived from §5784.11.

Subdivision (c) derived from §5784.12. Note that the 1957 law requires the district board to act by unanimous vote while this language allows the board of directors to transfer funds out of its restricted reserves by a 4/5 vote. That lower threshold is consistent with the 2/3 vote required for fire districts (see Health & Safety Code §13901).

5788.11. On or before July 1 of each year, the board of directors shall adopt a resolution establishing its appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B of the California Constitution and Division 9 (commencing with Section 7900) of Title 1 of the Government Code.

Topic, Derivation, and Comments: Annual Appropriations Limit. New. Based on Government Code §7910. The voters passed Proposition 4 (the 1979 Gann Initiative) requiring all local governments to set an annual appropriations limit (the “Gann Limit”). This language cross-references the uniform statutory procedures for setting appropriations limits, plus it sets the July 1 deadline.

5788.13. The auditor of each county in which a district is located shall allocate to the district its share of property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

Topic, Derivation, and Comments: Property Tax Allocation. Derived from §5784.5 and based on Health & Safety Code §13896. The voters passed Proposition 13 in 1978 and removed the ability of local agencies to set their own property tax rates. The 1% maximum property tax rate is fixed by Article XIII A, §1 (a) of the California Constitution. The Legislature has adopted statutes that tell county auditor-controllers how to allocate the resulting revenues. This language cross-references that existing statute.



5788.15. On or before July 1 of any year, the city council of a city which is located wholly or partially within a district may adopt a resolution ordering the transfer of funds from the city to the district in an amount equal to the entire or partial amount of property tax revenue that would have been allocated to the district from the territory that is located both in the city and the district. The city shall file certified copies of its resolution with the district and the county auditor. Pursuant to Section 96.8 of the Revenue and Taxation Code, the county auditor shall compute and implement an effective tax rate reduction. A city's decision to pay funds to a district in lieu of property tax revenues is effective only for the fiscal year for which it is made.

Topic, Derivation, and Comments: City Payments. Derived from §5784.8a. Cities can pay districts in lieu of having their taxpayers pay property taxes. When that happens, the property tax rate inside the city goes down.

5788.17. (a) A district may accept any revenue, money, grants, goods, or services from any federal, state, regional, or local agency or from any person for any lawful purpose of the district.

(b) In addition to any other existing authority, a district may borrow money and incur indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Contributions and Borrowing. New language.

Subdivision (a) based Health & Safety Code §13898. A district can accept any kind of help from any public agency or private source.

Subdivision (b) based on Health & Safety Code §13897. Districts can engage in short-term borrowing by using the standard statutes that apply to all local governments.

5788.19. A local agency may loan any of its available funds to a district.

Topic, Derivation, and Comments: Loans From Local Agencies. Derived from §5784.20 but broadened to apply to “local agencies” not just cities and counties. The definition of “local agency” is in §5780.1.

5788.21. (a) A district may acquire any necessary real property by borrowing money or purchasing on contract pursuant to this section. That indebtedness shall be in addition to any bonded indebtedness authorized by the voters.

(b) The amount of indebtedness shall not exceed an amount equal to two times the actual income from property tax revenues received pursuant to Section 5788.13 for the fiscal year preceding the year in which the indebtedness is incurred. Any indebtedness shall be repaid within 10 years from the date on which it is incurred. An indebtedness shall bear interest at a rate which shall not exceed the rate permitted under Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

(c) Each indebtedness shall be authorized by a resolution adopted by a four-fifths vote of the total membership of the board of directors and shall be evidenced by a promissory note or contract signed by the chair and the secretary or the clerk of the board of directors.

Topic, Derivation, and Comments: Promissory Notes. Derived from §5784.22. Districts can issue promissory notes to buy real property, without voter approval.

Subdivision (b) allows districts to pay interest under the uniform rate permitted by state law, rather than the 8% allowed by the 1957 law. That's the approach used in Health & Safety Code §13906 (b).

Subdivision (c) still requires the board of directors to act by a 4/5 vote but no longer requires the signatures of four board members. Just the board's chair and secretary (or the clerk) sign.

5788.23. (a) All claims for money or damages against a district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

(b) All claims against a district shall be audited, allowed, and paid by the board of directors by warrants drawn on the treasurer.

(c) As an alternative to subdivision (b), the board of directors may instruct the county auditor to audit, allow, and draw his or her warrant on the county treasurer for all legal claims presented to him or her and authorized by the board of directors.

(d) The treasurer shall pay the warrants in the order in which they are presented.

(e) If a warrant is presented for payment and the treasurer cannot pay it for want of funds in the account on which it is drawn, the treasurer shall endorse the warrant, "NOT PAID BECAUSE OF INSUFFICIENT FUNDS" and sign his or her name and the date and time the warrant was presented. From that time until it is paid, the warrant bears interest at the maximum rate permitted pursuant to Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Paying Claims and Warrants.

Subdivisions (a), (b), (c), and (d) derived from §5784.19.

Subdivision (e) derived from §5784.21. Note that the language requires paying interest on unpaid warrants at the standard rate that applies to all local governments instead of the 5% in the 1957 law. This provision is based on Health & Safety Code §13904.

5788.25. (a) The board of directors shall provide for regular audits of the district's accounts and records pursuant to Section 26909 of the Government Code.

(b) The board of directors shall provide for the annual financial reports to the State Controller pursuant to Article 9 (commencing with Section 53890) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Audits and Reports. New. This language explicitly refers to two existing requirements that already apply to all special districts. Placing the statutory cross-references in the new law will remind district officials of the obligations to audit their records and report their financial transactions.

**Article 10. Alternative Revenues**

5789. Whenever a board of directors determines that the amount of revenue available to the district or any of its zones is inadequate to meet the costs of providing facilities, programs, and services pursuant to Section 5786, the board of directors may raise revenues pursuant to this article or any other provision of law.

Topic, Derivation, and Comments: Revenue Authority. New. Based on Health & Safety Code §13910. The alternative revenue sources listed in this article are already available to the districts but this article serves as a “billboard” to remind district officials about the statutory alternatives.

5789.1. A district may levy special taxes pursuant to:

(a) Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. The special taxes shall be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property.

(b) The Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Special Taxes. A district must obtain 2/3-voter approval before it can levy special taxes.

Subdivision (a) derived from §5784.39. That section, dating from 1990, meets the constitutional standards of Proposition 13 (Article XIII A, §4) and Proposition 218 (Article XIII C, §2).

Subdivision (b) derived from Government Code §53313 (c) for “recreation programs,” and §53313.5 (a) for “park, recreation, parkway, and open-space facilities.” Those sections in the Mello-Roos Act, dating from 1982, meet the constitutional standards of Proposition 13 and Proposition 218.



5789.3. A district may levy special benefit assessments consistent with the requirements of Article XIII D of the California Constitution to finance capital improvements, including but not limited to special benefit assessments levied pursuant to:

(a) The Improvement Act of 1911, Division 7 (commencing with Section 5000 of the Streets and Highways Code.

(b) The Improvement Bond Act of 1915, Division 15 (commencing with Section 8500) of the Streets and Highways Code.

(c) The Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code.

(d) The Landscaping and Lighting Assessment Act of 1972, Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code.

(e) Any other statutory authorization enacted in the future.

Topic, Derivation, and Comments: Special Benefit Assessments. Derived from Streets & Highways Code §5005, §8503, §10003, and §22530. Districts can already use the 1911, 1913, 1915, and 1972 Acts. This language acts as a “billboard” to remind district officials that they can levy special benefit assessments, provided that they act consistently with the constitutional provisions added by Proposition 218.

5789.5. (a) A board of directors may charge a fee to cover the cost of any service which the district provides or the cost of enforcing any regulation for which the fee is charged. No fee shall exceed the costs reasonably borne by the district in providing the service or enforcing the regulation for which the fee is charged.

(b) Before imposing or increasing any fee for property-related services, a board of directors shall follow the procedures in Section 6 of Article XIII D of the California Constitution.

(c) A board of directors may charge residents or taxpayers of the district a fee authorized by this section which is less than the fee which it charges to nonresidents or nontaxpayers of the district.

(d) A board of directors may authorize district employees to waive the payment, in whole or in part, of a fee authorized by this section when the board of directors determines that payment would not be in the public interest. Before authorizing any waiver, a board of directors shall adopt a resolution which specifies the policies and procedures governing waivers.

Topic, Derivation, and Comments: Fees. New. Although many districts charge fees for their programs and facilities, there is no statutory authority for the practice.

Subdivision (a) based on Health & Safety Code §13916 (a) and repeats the constitutional standard that a fee can't exceed the cost.

Subdivision (b) based on California Constitution Article XIII C, §6 (Proposition 218). That requirement is self-executing and there is no statutory implementation.

Subdivision (c) based on Health & Safety Code §13917. A district can't overcharge nonresidents but it can undercharge residents. Residents and taxpayers support districts through their property taxes, so a district might want to charge them less than the full cost of the service.

Subdivision (d) based on Health & Safety Code §13919. A district might want to waive or partially waive fees for senior citizens, youngsters, or poor people. If they adopt written policies, this language allows them to do so.

Draft #1 had contained language spelling out the procedures that districts would follow to set their fees. The Working Group believed that the procedures were too cumbersome for the many small user fees that districts charge. For example, holding detailed annual hearings to change the admissions fee for a district's swimming pools would not be cost-effective.

### **Article 11. General Obligation Bonds**

5790. (a) Whenever a board of directors determines that it is necessary to incur a general obligation bonded indebtedness for the acquisition or improvement of real property or for funding or refunding of any outstanding indebtedness, the board of directors shall adopt a resolution making determinations and calling an election on a proposition to incur indebtedness.

(b) The amount of the bonds to be issued shall not exceed the amount specified in the resolution calling the election.

(c) A district shall not incur bonded indebtedness that exceeds 10 percent of the assessed value of all taxable property in the district at the time the bonds are issued.

Topic, Derivation, and Comments: Bonds Authorized. Derived from §5784.23. This language signals the beginning of the article that allows districts to issue G.O. bonds.

Subdivision (a) derived from §5784.23 and based on Health & Safety Code §13925.

Subdivision (b) derived from §5784.23. The language was separated for clarity.

Subdivision (c) derived from §5784.23. The language was separated for clarity. Just as in the 1957 law, the limit for G.O. bonds is 10%. For comparison, the ceiling for cities is 15% (Government Code §43605), fire districts' cap is 10% (Health & Safety Code §13937), and community services districts face no limit (Government Code §61650-§61687).

5790.1. The resolution shall state:

(a) The purpose for which the proposed debt is to be incurred, which may include expenses for the authorization, issuance, and sale of bonds.

(b) The amount of the debt to be incurred.

(c) The maximum term of the bonds, not to exceed 30 years.

(d) The maximum rate of interest to be paid, not to exceed the maximum rate permitted pursuant to Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The measure to be submitted to the voters.

(f) The date the election will be held.

(g) Any other matters that are required pursuant to Article 1.5 (commencing with Section 53410) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

(h) Any other matters that are required pursuant to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

Topic, Derivation, and Comments: Resolution Required. Derived from §5784.24 and based on Health & Safety Code §13926.

Subdivision (c) is derived from §5784.26 (a).

Subdivision (d) substitutes the uniform limit on interest rates for the 8% limit in the 1957 law.

Subdivision (g) cross-references the new statutory requirements imposed by SB 165 (Alarcón, 2000) which takes effect on January 1, 2001.

5790.3. (a) The election shall be conducted pursuant to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

(b) If two-thirds of the voters voting on the proposition favor incurring the indebtedness and issuing the bonds, the board of directors may incur the indebtedness and issue the bonds.

Topic, Derivation, and Comments: Bond Election and Vote.

Subdivision (a) derived from §5784.24 and based on Health & Safety Code §13927.

Subdivision (b) derived from §5784.25 and based on Health & Safety Code §13928. This language is consistent with California Constitution Article XIII A, §1 (b)(2).

5790.5. (a) The board of directors may provide for the issuance of bonds in any amounts, in any series, and on any terms, provided that they do not exceed the limits approved by the voters.

(b) The board of directors shall adopt a resolution prescribing the form and denomination of the bonds. The resolution shall specify the dates on which all or any part of the principal shall become due and payable. The payment of the first installment or principal may be deferred for a maximum period not to exceed five years from the date on which the board of directors issues the first bonds or first bonds in each series.

(c) The bonds shall be dated, numbered consecutively, and signed by the chair of the board of directors and the treasurer. Signatures may be facsimiles and may be mechanically reproduced by any means, provided that one of the signatures shall be signed by hand. If the chair of the board of directors or the treasurer whose signature appears on a bond ceases to hold that office before the delivery of the bonds to the purchaser, the signature is nevertheless valid for all purposes connected with that bond.

(d) The board of directors may provide for the call and redemption of bonds before their maturity at times and prices and upon any other terms as it specifies.

Topic, Derivation, and Comments: Issuing and Format.

Subdivision (a) derived from §5784.26 (a) & (b) and based on Health & Safety Code §13929. The 1957 law is excessively detailed so this language follows the approach used by fire districts. The language allows districts to tailor the issuance of their G.O. bonds to meet market conditions, consistent with the limits approved by the voters.

Subdivision (b) derived from §5784.26 (a) & (d) and based on Health & Safety Code §13930. The 1957 law is excessively detailed so this language follows the approach used by fire districts. The language allows the districts to tailor the format of their G.O. bonds to meet market demand.

Subdivision (c) derived from §5784.26 (e) and based on Health & Safety Code §13933.

Subdivision (d) derived from §5784.26 (g) and based on Health & Safety Code §13931.

5790.7. (a) Before selling the bonds, the board of directors shall give notice inviting sealed bids. At a minimum, the board of directors shall publish notice at least once in a newspaper of general circulation in the district at least 10 days before the deadline for receiving the bids.

(b) The board of directors shall award the sale of the bonds to the highest responsible bidder.

(c) If the board of directors does not receive any bids or if it determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board of directors may reject all bids, if any, and either readvertise or sell the bonds at private sale.

Topic, Derivation, and Comments: Selling Bonds. Derived from §5784.27 and based on Health & Safety Code §13934.

5790.9. Any general obligation bonds issued by a district shall have the same force, value, and use as bonds issued by a city and the bonds and interest on the bonds are exempt from all taxation within the State of California.

Topic, Derivation, and Comments: Tax Exempt Bonds. New. Based on Health & Safety Code §13936. This language clearly designates the districts' G.O. bonds as tax-exempt municipal securities. The 1957 law doesn't contain a similar declaration.



5790.11. (a) All premiums and accrued interest received from the sale of the bonds shall be deposited with the treasurer in a special bond service fund to be used for the payment of the principal of and interest on the bonds, and the remainder of the proceeds of the bonds shall be placed to the credit of the proper improvement fund and applied exclusively to the purposes stated in the proposition approved by the voters.

(b) When the purpose has been accomplished, any moneys remaining in the improvement fund shall be transferred to the special bond fund. When the purpose has been accomplished and all principal and interest on the bonds have been paid, any balance of money then remaining shall be transferred to the district's general fund.

Topic, Derivation, and Comments: Restricted Revenue. Derived from §5784.29 and based on Health & Safety Code §13938. This language requires district officials to restrict the use and payment of revenues needed to retire their G.O. bonds. Note that subdivision (b) allows residual funds to flow back to the district's general fund. The 1957 law is silent on what happens to the residual funds.

5790.13. For any bond approved by the voters on or after January 1, 2001, the treasurer shall file the annual report required pursuant to Article 1.5 (commencing with Section 53410) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Annual Bond Reports. New. This language cross-references the new statutory requirements imposed by SB 165 (Alarcón, 2000) which took effect on January 1, 2001.

5790.15. (a) After incurring a general obligation indebtedness, and annually thereafter until the indebtedness is paid or until there is a sum in the district treasury in a special bond service fund set apart for that purpose that is sufficient to meet all payments of principal and interest on that indebtedness as it becomes due, the board of directors shall adopt a resolution directing the county tax collector to levy a tax on behalf of the district.

(b) The tax shall be in addition to all other taxes levied by and for the district and shall be collected in the same manner and at the same time as county taxes. A county may recover its costs as provided in Section 29142 of the Government Code.

(c) The rate of the tax shall be fixed to result in proceeds which are sufficient to pay any principal and interest which will become due before the next proceeds of a tax to be levied will be available.

Topic, Derivation, and Comments: Extraordinary Tax Rate. Derived from §5784.30, §5784.32, and §5784.33, and based on Health & Safety Code §13938. This language requires the district's board to ask county officials to levy an extraordinary property tax rate, outside the ordinary 1% rate set by Article XIII A of the California Constitution. County officials can recover their costs.

5790.17. If a district dissolves after incurring a general obligation indebtedness, the property in the territory that constituted the district at the time of its dissolution shall continue to be subject to tax sufficient to pay any principal, interest, and any other amounts owing on account of that obligation, as they become due. Any order of dissolution pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Part 1 (commencing with Section 56000) of Division 3 of Title 5 of the Government Code shall impose that obligation.

Topic, Derivation, and Comments: Debts of Dissolved Districts. Derived from §5784.34 and based on Government Code §57458. This language is a statutory recognition of the bondholders' constitutional rights against an impairment of contract that might be caused when a district dissolves. The language reminds LAFCOs and other public officials to include this requirement when they dissolve districts.

## Article 12. Zones

5791. (a) Whenever a board of directors determines that it is in the public interest to provide different services, to provide different levels of service, or to raise additional revenues within specific areas of the district, it may form one or more zones pursuant to this article.

(b) The board of directors shall initiate proceedings for the formation of a new zone by adopting a resolution that does all of the following:

- (1) State that the proposal is made pursuant to this article.
- (2) Set for a description of the boundaries of the territory to be included in the zone.
- (3) State the different services, different levels of service, or additional revenues which the zone will provide.
- (4) Set forth the methods by which those services or levels of service will be financed.
- (5) State the reasons for forming the zone.
- (6) Propose a name or number for the zone.

(c) A proposal to form a new zone may also be initiated by a petition signed by not less than 10 percent of the registered voters residing within the proposed zone. The petition shall contain all of the matters required by subdivision (b).

(d) Upon the adoption of a resolution or the receipt of a valid petition, the board of directors shall fix the date, time, and place for the public hearing on the formation of the zone. The board of directors shall publish notice of the hearing, including the information required by subdivision (b), pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation in the district. The board of directors shall mail the notice at least 20 days before the date of the hearing to all owners of property within the proposed zone. The board of directors shall post the notice in at least three public places within the territory of the proposed zone.

### Topic, Derivation, and Comments: Forming Zones.

Subdivision (a) derived from §5788 and §5788.1; based on Health & Safety Code §13950 (a).

Subdivision (b) lets a district's board of directors initiate the formation of a zone by resolution, a power not available under the 1957 law. Based on Health & Safety Code §13950 (b).

Subdivision (c) derived from §5788.2 and §5788.3 but requires 10% not the 25% in the 1957 law.

Subdivision (d) derived from §5788.5 and based on Health & Safety Code §13950 (c).

5791.1. (a) At the hearing, the board of directors shall hear and consider any protests to the formation of the zone. If, at the conclusion of the hearing, the board of directors determines either (1) that more than 50 percent of the total number of voters residing within the proposed zone have filed written objections to the formation or (2) that property owners who own more than 50 percent of the assessed value of all taxable property in the district have filed written objections to the formation, then the board of directors shall terminate the proceedings. If the board of directors determines that the written objections have been filed by 50 percent or less of those voters or property owners, then the board of directors may proceed to form the zone.

(b) If the resolution or petition proposes that the zone use special taxes, benefit assessments, fees, or general obligation bonds to finance its purposes, the board of directors shall proceed according to law. If the voters or property owners do not approve those funding methods, the zone shall not be formed.

Topic, Derivation, and Comments: Hearing and Protest. Derived from §5788.7, §5788.8, §5788.9, and §5788.11. Majority protest by either voters or property owners stops the formation of the zone. If there is less than a majority protest, the district board proceeds to ask voters or property owners to approve the financing method. If they reject the financing method, the formation of the zone stops. This language avoids the requirement in §5788.8 of the 1957 law that required majority voter approval to form a zone if just 1% of the zone's voters protested.

5791.3. A board of directors may change the boundaries of a zone or dissolve a zone by following the procedures in Section 5791 and Section 5791.1.

Topic, Derivation, and Comments: Zone Boundaries. New. Based on Health & Safety Code §13951.

5791.5. A local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to form a zone, a proposal to change the boundaries of a zone, or a proposal to dissolve a zone.

Topic, Derivation, and Comments: No LAFCO Control. New. Based on Health & Safety Code §13952.



5791.7. (a) As determined by the board of directors, a zone may provide any service at any level within its boundaries that the district may provide.

(b) As determined by the board of directors and pursuant to the requirements of this chapter, a zone may exercise any fiscal powers within its boundaries that the district may exercise.

(c) Any special taxes, benefit assessments, fees, or general obligation bonds which are intended solely for the support of services within a zone shall be levied, assessed, and charged within the boundaries of the zone.

(d) A zone shall not incur a bonded indebtedness that exceeds the limit specified in subdivision (c) of Section 5790. Any bonded indebtedness of the entire district shall be included in computing that limit.

Topic, Derivation, and Comments: Services and Finances.

Subdivision (a) based on Health & Safety Code §13953.

Subdivision (b) derived from §5788.12 and based on Health & Safety Code §13954.

Subdivision (c) derived from §5788.13 and based on Health & Safety Code §13955.

Subdivision (d) derived from §5788.13.

**OTHER SECTIONS ENACTED BY SENATE BILL 707**

SECTION 1. Section 56131.7 is added to the Government Code, to read:

56131.7. Upon the filing of an application for the formation of, consolidation of, or dissolution of a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code, or of an application for a reorganization that includes any of those changes of organization, or the initiation by the commission of any of those changes or organization or any reorganization that includes any of those change of organization, the executive officer shall notify the Director of the State Department of Parks and Recreation. The director shall have 60 days from the date of receipt of notification by the executive officer to comment on the proposal. The commission shall consider all comments received from the director in making its decision.

Topic, Derivation, and Comments: Formation and State Department of Parks and Recreation. Derived from §5780.30. The 1957 law required the State Department of Parks and Recreation to study the feasibility of each new district. This language instead requires LAFCO to notify the Department and consider its comments.

SEC. 2. Article 53.5 (commencing with Section 20815) is added to Chapter 1 of Part 3 of the Public Contract Code, to read:

**Article 53.5. Recreation and Park Districts**

20815. The provisions of this article shall apply to contracts by recreation and park districts as provided in the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

20815.1. (a) All contracts for new construction estimated to cost in excess of twenty-five thousand dollars (\$25,000) shall be let to the lowest responsible bidder after competitive bidding.

(b) All contracts for alterations, maintenance, or repairs estimated to cost in excess of twenty-five thousand dollars (\$25,000) shall be let to the lowest responsible bidder after competitive bidding.

(c) All contracts for materials and supplies not related to new construction, alterations, maintenance, or repairs estimated to cost in excess of twenty-five thousand dollars (\$25,000) shall be let to the lowest responsible bidder after competitive bidding.

(d) A district may purchase in the open market without calling for bids, materials and supplies estimated to cost less than twenty-five thousand dollars (\$25,000) for use in the work either under contract or by force account.

20815.3. (a) A district shall publish notice inviting bids for any contract for which competitive bidding is required at least one time in a newspaper of general circulation in the district at least one week before the time specified for receiving bids. The notice shall distinctly state the work to be done.

(b) In its discretion, the board of directors may do any of the following:

- (1) Reject all bids and readvertise.
- (2) By a four-fifths vote, elect to purchase the materials or supplies in the open market.
- (3) By a four-fifths vote, elect to construct the building, structure, or improvement by force account.

(c) In the case of an emergency, the board of directors may act pursuant to Chapter 2.5 (commencing with Section 22050).

(d) The board of directors may, subject to the provisions of Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code, require the posting of those bonds it deems as a condition to the filing of a bid or the letting of a contract.

(e) The district shall keep cost records of the work pursuant to Chapter 1 (commencing with Section 4000) of Division 5 of Title 1 of the Government Code.

20815.5. Notwithstanding Sections 20815.1 and 20815.3, a district may use the provisions of the Uniform Public Construction Cost Accounting Act, Chapter 2 (commencing with Section 22000).

Topic, Derivation, and Comments: Bids and Force Accounts.

Section 20815.1 derived from §5782.5 (h). The amount is based on Public Resources Code §5549 (b)(2) which allows the East Bay Regional Park District to spend up to \$25,000 for supplies, materials, and labor without bids (AB 584, Aroner, 1999).

Section 20815.3 (a) derived from §5782.5 and based on Public Contract Code §20813 (b), fire districts' bidding procedures.

Section 20815.3 (b) based on the last sentence in §5782.5 (h).

Section 20815.3 (c) based on the last sentence in Public Contract Code §20685 (b) which allows community services districts to use the existing authority for local officials to contract for emergency work without bids. This language cross-references that standard procedure.

Section 20815.3 (d) based on Public Contract Code §22813 (e), fire districts' bond procedures.

Section 20815.3 (e) based on Public Contract Code §22813 (f), fire districts' contract records.

Section 20815.5 is new. The language allows a district to use the Uniform Public Construction Cost Accounting Act.

SEC. 3. Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code is repealed.

SEC. 4. Chapter 4 (commencing with Section 5780) is added to Division 5 of the Public Resources Code, to read:

Topic, Derivation, and Comments:

Section 4 of SB 707 repeals the former law.

Section 5 of SB 707 enacts the new Recreation and Park District Law.

SEC. 5. This act is based on the recommendations of the Working Group on Revising the Recreation and Park District Law convened by the Senate Committee on Local Government.

Topic, Derivation, and Comments: Source. New. This uncodified language signals future reviewers, including the courts, about the source of the statutory changes. This language is similar to Section 286 of AB 2838 (Hertzberg, 2000), Chapter 761 of the Statutes of 2000, the bill that revised the Cortese-Knox Act based on the recommendations of the Commission on Local Governance for the 21<sup>st</sup> Century.

## Source Table

### CALIFORNIA PUBLIC RESOURCES CODE Division 5. Parks and Monuments Chapter 4. Recreation and Parks Districts Article 1. General Provisions

*[All references are to the Public Resources Code unless otherwise indicated.]*

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
5780	Name and legislative intent	New
5780.1	Definitions	
	(a) "Board of directors"	5780.2
	(b) "City"	5780.3, HSC §13802 (a)
	(c) "Community recreation"	5780.5
	(d) "District"	5780
	(e) "Local agency"	New
	(f) "Principal county"	5780.05, GC §56066
	(g) "Recreation"	5780.4
	(h) "Recreation facility"	5780.6
	(i) "Voter"	Elections Code §359
	(j) "Zone"	HSC §13802 (g)
5780.3	Succession	
	(a) Authority	HSC §13803
	(b) Existing districts	5780.11
	(c) Prior actions	5780.9
5780.5	Constitutional basis and liberal construction	5780.18
5780.7	Severability	New, HSC §13805
5780.9	Validation suits	5780.10, HSC §13806

### Article 2. Area and Boundaries

5781	Area	5780.11, 5785
5781.1	Boundaries	5780.8

### Article 3. Formation

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
5782	Authority	5781.1
5782.1	Petition and signatures	5781.3 (b), GC §56700, HSC §13818
5782.3	Notice of intention	New, HSC §13817
5782.5	Application by resolution	5781.3 (a), HSC §13821, GC §56654
5782.7	LAFCO proceedings	New, HSC §13822

### Article 4. Selection of the Initial Board of Directors

5783	Authority	New, HSC §13834
5783.1	Unincorporated territory in one county	5781.4 (a)&(c), HSC §13835
5783.3	Unincorporated territory in two or more counties	5781.4 (b), HSC §13836
5783.5	Unincorporated territory and incorporated territory	5781.4 (b), HSC §13837
5783.7	Incorporated territory in one city	5781.4 (b), HSC §13838
5783.9	Incorporated territory in two or more cities	5781.4 (b), HSC §13839
5783.11	Elections and terms	5781.6
5783.13	Appointments and terms	5781.4 (b), Elections Code §10505 (c)

### Article 5. Boards of Directors and Officers

5784	Board of directors	
	(a) Board's authority	5780.2, 5782.1, HSC §13840
	(b) Five members	5781.4
	(c) Candidate must be a voter	5783.3
	(d) MAC service not incompatible	5781.10



<b><u>Section</u></b>	<b><u>Topic</u></b>	<b><u>Source*</u></b>
5784.1	Exceptions (a) North Bakersfield (b) Nonresident landowners can continue to serve	5781.46 5783.3
5784.3	Terms of office (a) Four-year terms (b) Newly formed districts (c) Vacancies for appointed directors (d) Vacancies for elected directors	5781.6, 5781.8 5781.6 5781.13, HSC §13852 (a) 5781.12, HSC §13852 (b)
5784.5	Commission	New, HSC §13844
5784.7	Officers (a) Board elects (b) Chair and vice chair (c) Secretary or clerk (d) Treasurer	5781.14, HSC §13853 (a) 5781.14, HSC §13853(a)&(c) New, HSC §13853 (b) 5784.18, HSC §13854 (a)
5784.9	Alternative depositaries (a) Alternative depository (b) Designation of depository (c) Nondesignation (d) Charges (e) Finance officer (f) Payments (g) Warrants (h) Signatures, alternative method (i) Auditing and accounting (j) Financial reports (k) Holdings in depositaries	5784.40 GC §61737.02 GC §61737.02 GC §61737.03 GC §61737.04 GC §61737.05 GC §37208 (b)&(c) GC §61737.06, 37203 GC §61737.07 GC §61737.08 GC §61737.09
5784.11	Meetings	5781.14, HSC §13855
5784.13	Actions (a) Quorum (b) Actions (c) Votes (d) Records (e) Rules	5782.16 5782.17 5782.17 5782.14 5782
5784.15	Stipends	5782.18, 5782.19

### Article 6. Reorganizing the Board of Directors

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
5785	Elections	
	(a) Methods	5781.20, 5781.21
	(b) By divisions, from divisions	GC §34871
	(c) Voters choose method	HSC §13846 (a)
	(d) Election to choose method	HSC §13846 (c)
	(e) Election notice	HSC §13846 (d)
	(f) Apportionment	HSC §13846 (e)
	(g) Election of directors	HSC §13846 (f)
	(h) Dissolving divisions	HSC §13846 (g)
5785.1	Reapportionment	New, HSC§13847, 5781
5785.3	Appointed to elected and reverse	New, HSC§13848
5785.5	Petition procedures	New, HSC§13849, 13850, 13851

### Article 7. Powers and Duties

5786	District services	5782.2
5786.1	Corporate powers	
	(a) Suits	5782.5 (a)
	(b) Property	5782.5 (b)
	(c) Eminent domain	5782.5 (c)
	(d) Employees	5782.5 (d), HSC §13861 (d)
	(e) Counsel	5782.5 (e)
	(f) Contracts	5782.5 (f)
	(g) Borrow money	5782.5 (g)
	(h) Seal	5782.13, HSC §13861 (g)
	(i) Ordinances	HSC §13861 (h)
	(j) Regulations	HSC §13861 (i)
	(k) Joint powers agreements	HSC §13861 (j)
	(l) Insurance	HSC §13851 (k)
	(m) Any necessary acts	5782.5 (g)
5786.3	Conformity to local ordinances and plans	New
5786.5	Eminent domain	5782.5 (c), 5790

<b><u>Section</u></b>	<b><u>Topic</u></b>	<b><u>Source*</u></b>
5786.7	Special powers	5782.25, 5782.27, 5782.22
5786.9	Basic operations (a) Perpetual succession (b) Name change (c) Records	5782.4 5782.15, GC §34502, GC §34503, HSC §13876 HSC §13868, GC §50115
5786.11	Cooperative action	5782.3
5786.13	Contracts with other agencies	5782.6
5786.15	Contracts (a) Policies and procedures (b) State purchasing (c) County purchasing (d) County contracts (e) Private vehicles and equipment	GC §54202, GC §54204 GC §54205 New 5782.65 5782.9
5786.17	Misdemeanors and infractions (a) Misdemeanors (b) Infractions (c) Uniformed employees	5782.21 New, HSC §13871 5782.26
5786.19	Employee relations	New, 5782.7
5786.21	Civil service reciprocity	5782.7.1
5786.23	Salaries paid by county-dependent districts	5782.7.2
5786.25	Employee bonds	5782.8
5786.27	Benefits	5782.10, 5782.11, HSC §13968
5786.29	Professional or vocational meetings	5782.12, HSC §13866
5786.31	Filing boundaries, taxes, and assessments	5780.13

### **Article 8. Elections**

5787	Elections follow UDEL	5783.6
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<b><u>Section</u></b>	<b><u>Topic</u></b>	<b><u>Source*</u></b>
5787.1	Timing of elections	5783.6, HSC §13886
<b>Article 9. Finance</b>		
5787.3	Paying for elections	5783.5
5788	Preliminary budget	5784, HSC §13890
5788.1	Notice of budget hearing	5784.1, HSC §13893
5788.3	Budget hearing	5784.2, 5784.3, HSC §13894
5788.5	Final budget	5784.4, HSC §13895
5788.7	Budget transfers	5784.9
5788.9	Restricted reserves	
	(a) Restricted reserves	5784.10, 5784.12
	(b) Transfers to restricted reserves	5784.11
	(c) Transfers out of restricted reserves	5784.12, HSC §13901
5788.11	Annual appropriations limit	New, GC §7910
5788.13	Property tax allocation	5784.5, HSC §13896
5788.15	City payments	5784.8a
5788.17	Contributions and borrowing	
	(a) Contributions	New, HSC §13898
	(b) Temporary borrowing	New, HSC §13897
5788.19	Loans from local agencies	5784.20
5788.21	Promissory notes	
	(a) Authority	5784.22
	(b) Terms	5788.22, HSC §13906 (b)
	(c) Promissory notes	5788.22
5788.23	Paying claims and warrants	5784.19, 5784.21
5788.25	Audits and reports	New

### Article 10. Alternative Revenues

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
5789	Revenue authority	New, HSC §13910
5789.1	Special taxes	
	(a) Special taxes authorized	5784.39
	(b) Mello-Roos Act special taxes	GC §53313 (b) & (c)
5789.3	Special benefit assessments	SHC §§5005, 8503, 10003, 22530
5789.5	Fees	New
	(a) Authority for fees	HSC §13916 (a)
	(b) Procedure	New
	(c) Lower fees	HSC §13917
	(d) Waive fees	HSC §13919

### Article 11. General Obligation Bonds

5790	Bonds authorized	5784.23, HSC §13925
5790.1	Resolution required	5784.24, 5784.26 HSC §13926
5790.3	Bond election and vote	
	(a) Follow UDEL	5784.24, HSC §13927
	(b) 2/3 vote	5784.25, HSC §13928
5790.5	Issuing and format	
	(a) Issuance	5784.26(a)&(b), HSC §13929
	(b) Form and terms	5784.26(a)&(d), HSC §13930
	(c) Format	5784.26 (e), HSC §13933
	(d) Call	5784.26 (g), HSC §13931
5790.7	Selling bonds	5784.27, HSC §13934
5790.9	Tax exempt bonds	New, HSC §13936
5790.11	Restricted revenue	5784.29, HSC §13938 (a)
5790.13	Annual bond reports	New, GC §53410

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
5790.15	Extraordinary tax rate	5784.30, 5784.32, 5784.33, HSC §13938 (b) & (c)
5790.17	Debts of dissolved districts	5784.34, GC §57458

**Article 12. Zones**

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
5791	Forming zones (a) Authority to form zones (b) By resolution (c) By petition (d) Notice and hearing	5788, 5788.1, HSC§13950(a) New, HSC §13950 (b) 5788.2, 5788.3 5788.5, HSC §13950 (c)
5791.1	Hearing and protest	5788.7, 5788.8, 5788.9, 5788.11, HSC §13950 (d)
5791.3	Zone boundaries	New, HSC§13951
5791.5	No LAFCO control	New, HSC§13952
5791.7	Services and finances (a) Service levels (b) Fiscal powers (c) Restricted finances  (d) Bond limit	HSC §13953 5788.12, HSC §13954 5788.12, 5788.13, HSC §13955 5788.13

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**SECTION 1. Government Code: Cortese-Knox-Hertzberg Act**

56131.7	Formation and State Dept of Parks and Recreation	5780.30
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**SEC. 2. Public Contract Code: Bids and Force Accounts**

20815	Authority	New, PCC §22810
20815.1	Contract limits	5782.5 (h), 5549 (b)(2)

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
20815.3	Procedures	
	(a) Notice	5782.5 (h), PCC §20813 (b)
	(b) Board actions	5782.5 (h)
	(c) Emergencies	PCC §20685 (b)
	(d) Bonds	PCC §20813 (e)
	(e) Cost records	PCC §20813 (f)
20815.5	Uniform Public Construction Cost Accounting Act	New

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**SEC. 5. Uncodified Legislative Declaration**

Uncodified	Source	New §286, AB 2838 (Hertzberg) Chapter 761, Statutes of 2000
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\* **Sources**

All references are to the Public Resources Code unless otherwise indicated, as follows:

- GC = Government Code
- HSC = Health and Safety Code
- PCC = Public Contract Code
- SHC = Streets and Highway Code

**Disposition Table**

**CALIFORNIA PUBLIC RESOURCES CODE  
Division 5. Parks and Monuments  
Chapter 4. Recreation and Park Districts  
Article 1. General Provisions**

<b><u>1957 Law Section</u></b>	<b><u>Topic</u></b>	<b><u>SB 707 Disposition*</u></b>
5780.	“District” defined	5780.1 (d)
5780.05	“Principal county” defined	5780.1 (f)
5780.1	“Supervising authority” defined	repealed
5780.2	“Governing body” and “district board” defined	5780.1 (a)
5780.3	“City” includes “city and county”	5780.1 (b)
5780.4	“Recreation” defined	5780.1 (g)
5780.5	“Community recreation” and “public recreation” defined	5780.1 (c)
5780.6	“Recreation center” defined	5780.1 (h)
5780.7	Formation follows the District Organization Law	repealed
5780.8	Cortese-Knox Act prevails	5781.1
5780.9	Errors don’t invalidate assessments, taxes, or elections	5780.3 (c)
5780.10	Validation lawsuits	5780.9
5780.11	Existing districts continued	5780.3 (b)
5780.12	Filing boundaries at the time of formation	5786.31
5780.13	Filing assessments and taxes	5786.31
5780.14	State certificates for newly formed districts	5786.31
5780.15	State certificate for existing districts and new elections	repealed
5780.16	Existing districts without state certificates	repealed
5780.17	State study of statutes	repealed
5780.18	Liberal construction	5780.5
5780.19	State certificate for existing districts	repealed
 <b>Article 1.5. Change in Method of Selection of District Board</b>		
5780.20	Convert a county-dependent district to an appointed board	5785.3



<b>1957 Law Section</b>	<b>Topic</b>	<b>SB 707 Disposition*</b>
5780.21	Convert a county-dependent district to an elected board	5785.3
<b>Article 2. Feasibility</b>		
5780.30	State feasibility report on proposed new district	GC §56131.7
<b>Article 3. Procedure to Form District</b>		
5781.1	Authority to form a new district	5782
5781.2	Territory to be included in a district	5781
5781.3	Initiation by either petition or resolution	5782.1, 5782.5
5781.4	Three alternative boards of directors	5783.1 → 5783.13
5781.45	Reapportionment of an appointed board	5785.1 (b)
5781.46	Special provisions for the North Bakersfield district	5784.1 (a)
5781.5	Preliminary hearings are not required	repealed
5781.6	Formation elections. Terms of office of first board	5783.11(a), 5784.3(b)
5781.7	Resolving tie votes	repealed
5781.8	Tenure in office	5784.3 (a)
5781.9	[Blank]	---
5781.10	MAC membership not incompatible	5784 (d)
5781.11	[Blank]	---
5781.12	Filling vacancies for elected board members	5784.3 (d)
5781.13	Filling vacancies for elected & appointed board members	5784.3 (c) & (d)
5781.14	Chairman and officers. Regular and special meetings	5784.7, 5784.11
5781.15	[Blank]	---
5781.16	[Blank]	---
5781.17	[Blank]	---
5781.18	[Blank]	---
5781.19	[Blank]	---
5781.20	Request to divide district into five divisions	5785
5781.21	Hearing on request to divide district into divisions	5785 (f)

<b>1957 Law Section</b>	<b>Topic</b>	<b>SB 707 Disposition*</b>
5781.22	Dividing a district into divisions	5785 (g)
5781.23	Election of directors from divisions	5785 (g)
5781.24	Current directors continue to serve	5785 (g)
5781.25	Election of directors from divisions	5785 (g)
5781.26	Modifying divisions	5785 (c)
5781.27	[Blank]	---
5781.28	[Blank]	---
5781.29	[Blank]	---
5781.30	[Blank]	---
5781.31	LAFCO's impartial analysis for a formation election ballot	5782.7 (a)
5781.32	Ballot arguments for formation elections	5782.7 (a)
5781.33	Priorities for selecting competing ballot arguments	5782.7 (a)
5781.34	Ballot pamphlets for formation elections	5782.7 (a)

#### **Article 4. Powers and Duties**

5782	Board can adopt rules	5784.13 (e)
5782.1	Board sets policy	5784 (a)
5782.2	District services	5786
5782.3	Joint cooperation with other public agencies	5786.11
5782.4	Perpetual succession	5786.9 (a)
5782.5	Districts' corporate powers	5786.1, PCC §20815
5782.5.1	Valley-Wide & Coachella Valley districts	[Repealed 1-1-01, AB 1905, c66/00]
5782.6	Contracts with other governments	5786.13
5782.65	Contracting-out by county purchasing agents	5786.15 (c) & (d)
5782.7	Civil service	5786.19 (b) & (c)
5782.7.1	Transfers between district and county civil service	5786.21
5782.7.2	Salaries paid by county-dependent districts in charter co's	5786.23
5782.8	Employees' bonds	5786.25
5782.9	Leasing private vehicles and equipment	5786.15 (e)

<b>1957 Law Section</b>	<b>Topic</b>	<b>SB 707 Disposition*</b>
5782.10	Board member and employee benefit programs	5786.27
5782.11	Insurance programs	5786.27
5782.12	Professional or vocational meetings	5786.29
5782.13	District's seal	5786.1 (h)
5782.14	District records	5784.13 (d)
5782.15	District name	5786.9 (b)
5782.16	Quorum	5784.13 (a)
5782.17	Board acts by majority vote	5784.13 (c)
5782.18	Board members' compensation	5784.15(a)(b)(d)&(e)
5782.19	Board members' expenses	5784.15 (c)
5782.20	[Blank]	---
5782.21	Rules, regulations, ordinances. Misdemeanors	5786.1 (j), 5786.17 (a) & (b)
5782.22	Fire protection services	5786.7 (c)
5782.23	Garbage collection, street lighting, street sweeping	repealed
5782.24	Powers of districts in Sacramento County	repealed
5782.25	Parker Dam district's electricity and water powers	5786.7 (a)
5782.26	Citations for misdemeanors and infractions	5786.17 (c)
5782.27	Camp Meeker district's water, sewer, debt & tax powers	5786.7 (b)

#### **Article 5. Provisions Relating to Elections**

5783	Formation election	repealed
5783.1	County elections officials run formation elections	repealed
5783.2	[Blank]	---
5783.3	Qualifications for candidates and board members	5784 (c)
5783.4	[Blank]	---
5783.5	Paying for elections	5787.3
5783.6	District elections follow UDEL	5787, 5787.1
5783.7	[Blank]	---
5783.8	[Blank]	---

<b>1957 Law Section</b>	<b>Topic</b>	<b>SB 707 Disposition*</b>
5783.9	[Blank]	---
5783.10	[Blank]	---
5783.11	Lucerne district's elected board	repealed, 5785.3
5783.12	Spring Valley district's elected board	repealed, 5785.3
5783.13	Russian River district's elected board	repealed, 5785.3

### **Article 6. Finance, Taxation, and Bonds**

5784	Preliminary budget by July 1	5788
5784.1	Notice of budget hearing	5788.1
5784.2	Budget hearing	5788.3
5784.3	Continued budget hearing	5788.3
5784.4	Final budget by August 10	5788.5
5784.5	Property tax rate	5788.13
5784.6	Former property tax rates continued in existence	repealed
5784.7	Maximum property tax rate set at formation election	repealed
5784.8	Property tax collection	repealed
5784.8a	Cities can pay revenues in lieu of property tax rate	5788.15
5784.9	Budget transfers after budget adopted	5788.7
5784.10	Capital outlay reserve	5788.9 (a)
5784.11	Transfers to the capital outlay reserve	5788.9 (b)
5784.12	Use of capital outlay reserve. Transfer to general fund	5788.9 (a) & (c)
5784.13	Changes in property tax rates	repealed
5784.14	Elections on changes to the property tax rates	repealed
5784.15	Arrangements and costs of tax rate elections	repealed
5784.16	Ballot language for tax rate elections	repealed
5784.17	Effective date of changes to property tax rates	repealed
5784.18	County treasurer is the district's treasurer	5784.7 (d)
5784.19	Paying claims, including warrants	5788.23 (a) → (d)
5784.20	Counties and cities can loan money to districts	5788.19 (a)

<b>1957 Law Section</b>	<b>Topic</b>	<b>SB 707 Disposition*</b>
5784.21	Unpaid warrants earn 5% interest	5788.23 (e)
5784.22	Two-year promissory notes for land and facilities	5788.21
5784.23	General obligation bonds authorized. Amount limited	5790
5784.24	Elections on general obligation bonds.	5790.1, 5790.3 (a)
5784.25	2/3-voter approval required for general obligation bonds	5790.3 (b)
5784.26	Provisions for issuing general obligation bonds	5790.1, 5790.3, 5790.5
5784.27	Selling G.O. bonds. Open bidding & private sales	5790.7
5784.28	Signatures on general obligation bonds	5790.5 (c)
5784.29	Restrictions on general obligation bonds	5790.11
5784.30	Extraordinary property tax rate for G.O. bonds	5790.15 (a)
5784.31	Extraordinary tax levied even if bonds postponed	repealed
5784.32	Setting the extraordinary property tax rate	5790.15 (b)
5784.33	District pays county's costs for issuing G.O. bonds	5790.15 (b)
5784.34	Property owners pay off bonds even if district dissolves	5790.17
5784.35	Revolving fund	repealed
5784.36	Revolving fund spending must be legal	repealed
5784.37	Document spending over \$1	repealed
5784.38	Revolving fund reimbursements	repealed
5784.39	Districts can levy special taxes	5789.1
5784.40	Districts manage their own funds	5784.9

#### **Article 7. Annexation**

5785	Annexation of contiguous territory	5781, 5781.1
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#### **Article 8. [Blank]**

#### **Article 9. [Blank]**

**Article 10. Zones**

<b>1957 Law Section</b>	<b>Topic</b>	<b>SB 707 Disposition*</b>
5788	Districts can establish internal zones	5791 (a)
5788.1	Zones for segregating costs with special assessments	5791 (a)
5788.2	Petitions initiate the formation of zones	5791 (c)
5788.3	Petitions to initiate the formation of a zone	5791 (c)
5788.4	Concurrent annexation and formation of a zone	repealed
5788.5	Notice of a hearing to form a zone	5791 (d)
5788.6	Contents of the notice	repealed
5788.7	Majority protest to the formation of a zone	5791 (d), 5791.1 (a)
5788.8	Formation of a zone. Election may be needed	5791.1 (b)
5788.9	Election on forming a zone	5791.1 (b)
5788.10	Property tax rate within a zone. Chico Area district	repealed
5788.11	Maximum property tax rate for a zone	5791.1 (b)
5788.12	Special taxes within a zone	5791.7 (b)
5788.13	General obligation bonds by a zone	5791.7 (b) & (d)

**Chapter 5. Recreation and Park Districts Without the Power of Eminent Domain**

5790	Districts without eminent domain	5782.1 (a)(4), 5786.5
5791	Districts without eminent domain, identification	repealed

**\* Sources**

All references are to the Public Resources Code unless otherwise indicated, as follows:

GC = Government Code

PCC = Public Contract Code

## Inventory of Recreation & Park Districts

<u>County</u>	<u>Recreation &amp; Park District</u>	<u>Notes</u>	
Alameda	Hayward Area	Independent. Directly elected board.	
	Livermore Area	Independent. Directly elected board.	
Butte	Chico Area	Independent. Directly elected board.	
	Durham	Independent. Directly elected board.	
	Feather River	Independent. Directly elected board.	
	Paradise	Independent. Directly elected board.	
	Richvale	Independent. Directly elected board.	
	San Andreas	Independent. Directly elected board.	
Calaveras	San Andreas	Independent. Directly elected board.	
Colusa	Maxwell	Independent. Directly elected board.	
	Stonyford	Independent. Directly elected board.	
	Ambrose	Independent. Directly elected board.	
Contra Costa	Brentwood	Independent. Directly elected board.	
	Green Valley	Independent. Directly elected board.	
	Pleasant Hill	Independent. Directly elected board.	
	Rollingwood-Wilart	Independent. Directly elected board.	
	Georgetown Divide	Independent. Directly elected board.	
	El Dorado	Georgetown Divide	Independent. Directly elected board.
Fresno	Calwa	Independent. Directly elected board.	
	Coalinga-Huron	Independent. Directly elected board.	
Humboldt	North Humboldt	Independent. Directly elected board.	
	Rohner Community	Independent. Directly elected board.	
Kern	Bear Mountain	Independent. Directly elected board.	
	Buttonwillow	Independent. Directly elected board.	
	McFarland	Independent. Directly elected board.	
	North Bakersfield	Independent. Seven-member board.	
	Shafter	Independent. Directly elected board.	
	Tehachapi Valley	Independent. Directly elected board.	
	Wasco	Independent. Directly elected board.	
	West Side	Independent. Directly elected board.	
	Lake	Lucerne	Independent. Fire dept. but no parks.
	Los Angeles	Bella Vista	Dependent. Board of Supervisors.
Miraleste		Independent. Directly elected board.	
Ridgecrest		Independent. Directly elected board.	
Westfield Park		Independent. Directly elected board.	
Marin	Strawberry	Independent. Directly elected board.	
Mendocino	Mendocino Coast	Independent. Directly elected board.	
Monterey	Carmel Valley	Independent. Directly elected board.	
	North County Public	Independent. Directly elected board.	
	Greenfield	Independent. Directly elected board.	
Nevada	Soledad-Mission	Independent. Appointed board.	
	Truckee-Donner	Independent. Directly elected board.	
	Western Gateway Regional	Independent. Directly elected board.	

<b><u>County</u></b>	<b><u>Recreation &amp; Park District</u></b>	<b><u>Notes</u></b>
Orange	Cypress	Dependent. City Council.
	Silverado-Modjeska	Independent. Directly elected board.
Placer	Auburn	Independent. Directly elected board.
Plumas	Central Plumas	Independent. Directly elected board.
Riverside	Beaumont-Cherry Valley	Independent. Directly elected board.
	Coachella Valley	Independent. Directly elected board.
	Jurupa Area	Independent. Directly elected board.
	Ortega Trail	Dissolution pending in 2000.
	Valley-Wide	Independent. Directly elected board.
Sacramento	Arcade Creek	Independent. Directly elected board.
	Arden Manor	Independent. Directly elected board.
	Arden Park	Independent. Directly elected board.
	Carmichael	Dependent. Board of Supervisors.*
	Cordova	Independent. Directly elected board.
	Fair Oaks	Independent. Directly elected board.
	Fulton-El Camino	Independent. Directly elected board.
	Mission Oaks	Dependent. Board of Supervisors.*
	North Highlands	Independent. Directly elected board.
	Orangevale	Independent. Directly elected board.
	Southgate	Independent. Directly elected board.
	Sunrise	Dependent. Board of Supervisors.*
San Bernardino	Apple Valley	Independent. Directly elected board.
	Barstow	Dependent. City Council.
	Big Bear Valley	Dependent. Board of Supervisors.
	Bloomington	Dependent. Board of Supervisors.
	Hesperia	Independent. Directly elected board.
	Parker Dam	Independent. Directly elected board.
	Rim of the World	Independent. Directly elected board.
	Victorville	Dependent. City Council.
Santa Barbara	Cuyama	Independent. Directly elected board.
	Isla Vista	Independent. Directly elected board.
Santa Clara	Rancho Rinconada	Independent. Directly elected board.
Santa Cruz	Alba	Independent. Directly elected board.
	Boulder Creek	Independent. Directly elected board.
	La Selva Beach	Independent. Directly elected board.
	Opal Cliffs	Independent. Directly elected board.
Siskiyou	Dunsmuir	Independent. Directly elected board.
	Mount Shasta	Independent. Directly elected board.
	Weed	Independent. Directly elected board.
Solano	Greater Vallejo	Independent. Appointed board.
Sonoma	Camp Meeker	Independent. Directly elected board.
	Del Rio Woods	Independent. Directly elected board.
	Monte Rio	Independent. Directly elected board.
	Russian River	Independent. Directly elected board.



<u>County</u>	<u>Recreation &amp; Park District</u>	<u>Notes</u>
Trinity	Greater Hayfork Valley	Independent. Directly elected board.
	Weaverville-Douglas City	Independent. Directly elected board.
Tuolumne	Tuolumne	Independent. Directly elected board.
Ventura	Conejo	Independent. Directly elected board.
	Pleasant Valley	Independent. Directly elected board.
	Rancho Simi	Independent. Directly elected board.

\* **Note:** The Sacramento County Board of Supervisors is the official board of directors for these three recreation and park districts. However, each district has its own appointed advisory commission which controls the district's routine affairs.

**Source:** Table and notes prepared by the Senate Local Government Committee from data provided by the Division of Accounting and Reporting, State Controller's Office, based on the Special Districts Annual Report, Fiscal Year 1996-97.

## Credits and Sources

In researching and writing this report, the staff of the Senate Local Government Committee relied on the materials prepared for the Working Group, plus the following sources:

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"An Approach To Analysis," (memo) Senate Housing and Land Use Committee, November 30, 1995.

*Honey Springs Homeowners Assn v. Board of Supervisors* (1984) 157 Cal.App. 3d 1122.

List of California's Constitutional Officers, Congressional Representatives, Members and Sessions of the State Legislature and Justices of the California Supreme Court, 1849-1985, Sacramento: California Legislature, 1985.

Preliminary Report of the Senate Interim Committee on Study of Districts, Sacramento: Senate of the State of California, 1959.

Special Districts Annual Report, Fiscal Year 1997-98, Sacramento: State Controller's Office, October 2000.

The Political Graveyard, The Web Site That Tells Where the Dead Politicians are Buried: <http://politicalgraveyard.com>.

The Why? What? Who? How? And When? Of the California Association of Recreation & Park Districts, Norwalk: California Association of Recreation & Park Districts, 1959.

\* \* \* \* \*

Peter Detwiler, staff director for the Senate Local Government Committee wrote this report. Elvia Diaz, the Committee Assistant, produced the report.

**STAFF REPORT**  
***Rohner Community Recreation & Park District Board***  
***Business Agenda Item***

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**DATE:** September 5, 2018

**TO:** Rohner Community Recreation and Park District (RCRPD) Board

**FROM:** Cameron Mull, Director of Parks & Recreation

**THRU:** Merritt Perry, Interim City Manager

**SUBJECT:** **Approval of Fiscal Year (FY) 2017/2018 RCRPD Funds for Newburg Park Ballfield Lights Purchase**

**STAFF RECOMMENDATION:**

Authorize staff to use the remaining FY17/18 RCRPD funds of \$15,160 to purchase ballfield lights for Newburg Park.

**EXECUTIVE SUMMARY:**

Prior to the appointment of the current board, the City of Fortuna acted as the decision making body for the Rohner Community Recreation and Park District. In FY17-18 City Council approved its budget, which would allow the City to spend the \$17,000 in total funds collected from Rohner Community property taxes for the purpose of replacement of Newburg Park ballfield light fixtures. Of the total \$17,000 in FY17/18 RCRPD funds, \$1,840 was utilized for a lift rental to inspect and repair the existing lights, leaving \$15,160 remaining to replace the Newburg Park ballfield lights. These remaining funds are anticipated to supplement \$15,000 contributed by the City of Fortuna Measure E approved funding in FY17/18, along with \$25,000 in City of Fortuna Measure E funds for FY18/19. The total from all of these three funding sources will allow the city to replace all 136 of Newburg Park's metal halide ballfield light fixtures. A Supplemental Budget Request to utilize the FY17/18 remaining RCRPD funds (as well as the remaining Measure E funds), was approved by City Council on July 7, 2018.

**FISCAL IMPACT:**

\$15,160 of RCRPD funds from FY17/18 budget to be used towards City purchase of replacement metal halide lights in Newburg Park in FY18/19.

**RECOMMENDED ACTION:**

1. Receive staff presentation and review any questions with staff.
2. Open Public Comment
3. Close Public Comment
4. Authorize staff to use the remaining FY17/18 RCRPD funds of \$15,160 to purchase ballfield lights for Newburg Park. Voice vote.