Coachella Valley Mosquito and Vector Control District

Trustee Manual

Revised May 2017
Welcome to the Coachella Valley Mosquito & Vector Control District. The following is an overview of a Trustee’s responsibilities and the Trustee Manual.

**Health & Safety Code:**

Vector Control Districts are governed by the Health and Safety Code. The primary function of the Board is to establish policies and define guidelines for the District. The General Manager and the District’s Counsel report directly to the Board of Trustees. The Board delegates the authority to the General Manager to administer all such policies and guidelines on a daily basis. The General Manager communicates directly with the Board and provides the Board with information necessary to make well informed decisions regarding all matters before the Board. It is important for Trustees to recognize and respect the separation of the functions of the administrator (the General Manager) and the policy makers (the Board of Trustees).

- **Section 2022 of the Health & Safety Code:** “All trustees shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of this chapter. The trustees shall represent the interests of the public as a whole and not solely the interest of the board of supervisors or the city council that appointed them.” This means trustees are prohibited from putting the priorities of the jurisdictions they live in above those of the District as a whole.

  The complete California Health and Safety Codes can be found under Appendix A.

**Brown Act:**

The Brown Act (“Open Meetings Law”) was enacted to create transparency regarding the business activities of public agencies. Under the Brown Act certain matters, however, may be discussed in closed sessions; those include land negotiations, pending and potential litigation, security, certain employee matters, etc.
• **Emails and other informal communications:** Trustees should refrain from asking or directing staff to solicit input from other Trustees regarding matters within the subject matter jurisdiction of the Board to avoid potential violations of the Brown Act. Trustees are prohibited from engaging in email conversations or other communications outside of Board meetings with a majority of Trustees regarding any matter within the Board’s subject matter jurisdiction.

• **Closed Session:** The Board may hold closed sessions only to discuss the following items: potential and pending litigation, real property negotiations, labor negotiations, liability claims, security of public buildings and services, threats to public services or facilities, etc. The Brown Act prohibits Trustees from disclosing or discussing anything disclosed, discussed, or produced in Closed Session with anyone other than the General Manager or General Counsel unless otherwise directed by the Board. Violation of this could result in criminal penalties.

  More information on the Brown Act can be found under Appendix B.

**California Government Codes:**

• **Ethics:** All Trustees are required to attend AB1234 Ethics Training every two years. The training is available at various conferences, training sessions, internet, and DVD, which can be mailed to you. The Clerk of the Board can assist you with finding available training and will remind you when you need to renew your certification.

• **Form 700 Statement of Economic Interests:** In effort to avoid any financial Conflicts of Interest all trustees must file the Form 700 Statement of Economic Interests annually by March.

• **Sexual Harassment:** All Trustees are must receive at least two hours of sexual harassment prevention training and education within the first six months of taking office. Moreover, local agency officials must receive this training at least once every two years. “Local agency officials” includes any member of a legislative body and any elected officials of cities, counties, and special districts.
• **Public Records Act:** All Trustees should be aware that their written communications relating to District business are generally subject to disclosure under the Public Records Act. This would include correspondence, e-mail communications and text messages, even if those communications are maintained on a Trustee’s privately owned devices.

**District Policies:**

• **Press:** Any inquiries presented to a Trustee from any media outlet should be referred to the District’s General Manager or Legal Counsel, depending on the issue.

• **Requests for Information and/or Special Assignments:** If a Trustee requires information that cannot be easily obtained by the General Manager or department manager, the Trustee must bring the request to the full Board of Trustees. The request can be made during the “Trustee Comments” portion of the Board Meeting. The General Manager should be made aware of any requests made to a subordinate. If the inquiry relates to a legal matter, a Trustee may request information of the General Counsel.

• **Trustee Health Benefits:** Trustees may purchase, at their sole expense, health benefits through the District. The District is enrolled for medical benefits through the CalPERS health benefits, which sometimes offers better rates than what is offered by other providers. *Trustees, who are interested, are invited to speak with the District’s Human Resources Manager for more information.*

• **Trustee Travel and Expense Policy:** All Trustees are encouraged to attend trainings and conferences, consistent with this policy, that can broaden their knowledge and assist them in governing the District. The Policy discusses what expenses can be reimbursed and other guidelines that should be adhered to when doing District travel. *This policy can be found under Appendix G.*

• **Credit Card Policy:** The District provides District issued credit cards to trustees who attend conferences or trainings that require an overnight stay. The travel must have been previously approved by the Board and proper paperwork must be filed with the Finance Department before a credit card can be signed out for use. Once travel has been completed, the Trustee
must return the credit card along with a Travel Expense voucher form and receipts from all purchase made with the credit card. *This policy can be found under Appendix G.*

- **Travel:** As required by Section III of the Policy, upon returning from seminars, workshops, conferences, etc., where expenses are reimbursed by the District, Trustees must either prepare a written report for distribution to the Board, or make a verbal report during the next regular meeting of the Board. Said report shall detail what was learned at the session(s) that will be of benefit to the District. Materials from the session(s) may be delivered to the District office to be included in the District library for the future use of other Trustees and staff.

**MEETINGS:**

**Rules of Decorum:**

1. **Trustees** - While the Board is in session, Trustees must preserve order and decorum, and a Trustee will neither by conversation or otherwise delay or interrupt the proceedings or the peace of the Board nor disturb a Trustee while speaking or refuse to obey the orders of the presiding officer.

2. **Use of Electronic Devices** - While the Board is in session, Trustees, shall give their sole attention to the proceedings and shall refrain from using electronic devices such as computers, cell phones, pagers, PDAs and other electronic devices for the purpose of sending or receiving external communication. Trustees are permitted to use laptop computers or other devices to access electronic agenda packets while in session.

**Rules of Debate**

1. **Getting the Floor** - Every Trustee desiring to speak will first address the presiding officer, gain recognition by the presiding officer, and will confine himself/herself to the question under debate, avoiding personalities and indecorous language.

2. **Questions to Staff** - Every Trustee desiring to question the staff will, after recognition by the presiding officer, address his/her questions to the General Manager, who will either answer the inquiry or designate a member of his/her staff for that purpose. If a Trustee has a legal question, that question should be directed to the General Counsel.
3. **Interruptions** - A Trustee, once recognized, will not be interrupted when speaking unless called to order by the presiding officer, unless a point of order or personal privilege is raised by another Trustee or unless the speaker chooses to yield to a question by another Trustee. If a Trustee, while speaking, is called to order, he/she will cease speaking until the question of order is determined and, if determined to be in order, he/she may proceed. Staff after recognition by the presiding officer will hold the floor until completion of their remarks or until recognition is withdrawn by the presiding officer.

4. **Point of Order** - The presiding officer will determine all points of order subject to the right of any Trustee to appeal to the Board.

5. **Point of Personal Privilege** - The right of a Trustee to address the Board on a question of personal privilege is limited to cases in which his/her integrity, character or motives are questioned or where the welfare of the Board is concerned. A Trustee raising a point of personal privilege may interrupt another Trustee who has the floor only if the presiding officer recognizes the privilege.

6. **Limitation to Debate** - No Trustee will be allowed to speak more than once upon a particular subject until every other Trustee desiring to do so has spoken.

7. **Motions** – Second Required - A motion by a Trustee, including the presiding officer, may not be discussed or acted on without receiving a second.

8. **Disqualification for Conflict of Interest** - Any Trustee who is disqualified from voting on a particular matter by reason of a conflict of interest must publicly state or have the presiding officer state the nature of the disqualification in open meeting. Unless the matter is a consent item, a Trustee who is disqualified by reason of a conflict of interest in any matter may not remain in his/her seat during the debate and vote on the matter, but shall request and be given the permission of the presiding officer to step down from the dais and leave the Board Room during discussion and action on the matter. A Trustee stating disqualification will not be counted as a part of a quorum and will be considered absent for the purpose of determining the outcome of a vote on the matter.
Voting

1. **Failure to Vote** - Every Trustee should vote unless disqualified by reason of a conflict of interest. A Trustee who abstains from voting in effect consents that a majority of the quorum may decide the question voted upon.

2. **Tie Vote** - Tie votes will be lost motions and may be reconsidered at a subsequent meeting upon a motion passed by the Board to reconsider the item at a subsequent meeting.

3. **Changing Vote** - A Trustee may change his/her vote only if he/she makes a timely request to do so immediately following the announcement of the vote by the presiding officer and prior to the time that the next item in the order of business is taken up.

4. **Recording of Votes** - Where a split vote appears imminent, any Trustee may request a vote by roll call, and the vote of each Trustee shall be recorded by the Clerk. The presiding officer or the Clerk shall announce the tally of the votes on each item, indicating which Trustee voted for and against the item. Items that pass unanimously can be so referenced.

5. **Rule of Necessity** - The Board may allow a Trustee or Trustees with a potential conflict of interest to participate in the decision (including discussion, debate, deliberation and voting) which is the basis of the subject Trustee’s or Trustees’ conflict if there is a lack of a quorum caused solely by a majority of the Board having a potential conflict of interest with respect to the subject decision. Under such circumstances, the Board may select by random lot which Trustee or Trustees may participate in the subject decision or in the alternative, however, the Board may select the Trustee or Trustees with the lowest level of conflict to participate in the decision, in order to establish a quorum.
TABLE OF CONTENTS

I. GENERAL DESCRIPTION OF DISTRICT PROGRAMS AND SERVICES

Mission Statement ........................................................................................................... 3
About the Vector Control District ................................................................................. 3
Summary of Services ...................................................................................................... 5
Vectors and Vector-Borne Diseases in the Coachella Valley ........................................ 6
  Mosquitoes .................................................................................................................. 6
  RIFA ............................................................................................................................ 9
  Eye Gnats ................................................................................................................... 10
  Filth Flies .................................................................................................................. 11
  Rodents ...................................................................................................................... 12
Integrated Vector Management .................................................................................... 13
Surveillance .................................................................................................................... 15
Efficacy and Quality Control ......................................................................................... 18
Biological Control ......................................................................................................... 19
Research ......................................................................................................................... 20
IT/GIS Program ............................................................................................................. 21
Public Outreach ............................................................................................................ 22
Interagency Programs .................................................................................................... 23
Important Contacts and Resources .............................................................................. 24

II. THE LEGAL BASIS AND ROLE OF DISTRICT GOVERNING BOARDS

Administration ............................................................................................................... 25
Trustee Responsibilities ................................................................................................. 25
Trustee Conduct and Staff Relations ............................................................................. 26
Executive Officer Responsibilities ................................................................................... 27
Committee Roles and Responsibilities .......................................................................... 26
III. APPENDIX

Appendix A  Health and Safety Code
Appendix B  Ralph M. Brown Act Guide
Appendix C  What So Special About Special Districts?
Appendix D  By-Laws Governing Board of Trustees Meetings
Appendix E  Conflict of Interest Code
Appendix F  MVCAC Trustee Reference Manual
Appendix G  Important Policies

An electronic version of this Trustee Manual is available for download on the District’s website at: www.cvmvcd.org/publicdocuments
GENERAL DESCRIPTION OF DISTRICT PROGRAMS AND SERVICES

MISSION STATEMENT

"We are dedicated to enhancing the quality of life for our community by providing effective and environmentally sound vector control and disease prevention programs."

ABOUT THE VECTOR CONTROL DISTRICT

The Coachella Valley Mosquito and Vector Control District is a non-enterprise special district accountable to the residents of the Coachella Valley and charged with protecting the public health within its boundaries through the control of vectors (such as mosquitoes) and vector-borne diseases.

The District boundary encompasses 2400 square miles, including Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, Rancho Mirage, and unincorporated sections of Riverside County.

The District operates under the California Health and Safety Code, Division 3, Sections 2000-2910 and is governed by an 11-member Board of Trustees. There are 58 full-time employees and 3-10 seasonal staff from April to November.

HISTORY

During the mid-1920s, eye gnats (Hippelates) had become a significant problem in the Coachella Valley. Mass meetings were held resulting in petitions sent to the University of California, the State and County Boards of Health and Federal Government asking for immediate assistance. The concern was, not just the nuisance that eye gnats were causing, but that eye gnats are potential mechanical vectors of conjunctivitis (“pink eye”).

In 1927, “pink eye” had become so prevalent that schools in the Coachella Valley were closed for two months during the eye gnat season. To address the problem, Dr. William B. Herms of the University of California, Berkeley sent researchers to the Valley and the Federal Government appropriated $12,000.00 for study of eye gnats. The Bureau of Entomology established a Gnat Research Laboratory with four entomologists, D.C. Parman as head, David G. Hall, Gaylon, W. Robertson and Robert W. Burgess. The Coachella Valley Mosquito Abatement District (District), was formed under the California Mosquito Abatement by the Riverside County Board of Supervisors on March 12, 1928, to combat eye gnats. At the time seven trustees were appointed by the Riverside County Board of Supervisors to create and oversee the District policies.

In October of 1948, the first District entomologist, Dr. Ernest R. Tinkham, began his intensive research into eye gnat control. Dr. Tinkham confirmed that eye gnats could be controlled by the application of insecticide to the soil where eye gnat larvae breed. The District employed this practice for many years until insect resistance, environmental concerns, and budgetary constraints made it no longer feasible. From 1956, Dr. Mir Mulla from the University of
California, Riverside collaborated with the District in extensive research on eye gnats, including their habitats and control techniques, introducing a method termed “trapping out” using non-pesticide attractant to draw the flies in the traps and deplete them locally.

In 1949 the Coachella Valley Canal was completed bringing an abundance of water to the valley, which resulted in the formation of mosquito breeding sites from irrigation runoff. The abundance of mosquitoes created a nuisance as well as a health threat in the form of mosquito-borne virus transmission.

In January 1951, the Board of Trustees of the District formed a Mosquito Control Department in addition to the eye gnat control. Forty-four years later, in 1995, the Board of Trustees expanded the District to a full vector control agency and changed the name to the CV Mosquito and Vector Control District. With this expansion in programs came the need for a larger, modern headquarters to meet work and safety requirements. The District moved from its Thermal headquarters, where it had been located for 73 years, to the new headquarters in Indio in April 2001.

In 2005, the District added the Red Imported Fire Ant (RIFA) Program. Valley residents suffering from RIFA infestations could now call the District for property inspections and treatment of this pest.

The Mir S. Mulla Biological Control Facility was completed in 2006. In it, mosquitofish are reared, allowing the District to sufficiently meet needs for biological control of mosquitoes. The District’s Laboratory was expanded and upgraded in 2014 to include a Biological Safety Laboratory-3; this upgraded facility allows the District to conduct testing of arbovirus samples on-site. By conducting those tests at the District, positive virus samples trigger responses within 1 day instead of waiting for results from mailing samples to Davis, California, allowing for treatments to occur quickly and providing better protection of the residents of the Coachella Valley.

The District has a Code of Conduct to operate responsibly socially, environmentally and fiscally. The three most important functions of the District include Surveillance, Control, and Public Outreach/Education. The District’s goal is to keep this three-legged stool stable through the efforts of a dedicated and professional staff, fiscal security, and administrative guidance from the Board of Trustees.

**Governance of the District**

The Board of Trustees is comprised of eleven Trustees each from one of the nine incorporated cities of the Coachella Valley and two from the County at Large. The Board meetings are open to the public and held at 6:00 p.m. on the second Tuesday of every month.

Updated May 2017
SUMMARY OF SERVICES

The main services provided by the District include:

1. **Mosquito Surveillance and Control** - the District maintains a comprehensive, year-round, mosquito-borne disease surveillance and control program to suppress mosquito populations. The program consists of:
   - Surveillance of immature (larval) stages of mosquitoes in different breeding sources including urban, suburban and rural areas.
   - Surveillance of adult populations of mosquitoes in urban, suburban, and rural areas using different types of traps.
   - Mosquito PCR testing of mosquito-borne viruses that can infect people, such as West Nile virus, St. Louis encephalitis virus, and western equine encephalomyelitis virus
   - Operational control program that uses different methods, control products, and tools to suppress mosquito population.
   - Use of biological control agents, such as stocking of mosquitofish in mosquito breeding habitats, where applicable.

2. **Red Imported Fire Ants Control** – year round service which provides surveillance and control efforts of Red Imported Fire Ants.

3. **Eye Gnat and Fly Surveillance and Suppression** – To control eye gnats, thousands of traps are placed in suburban and rural areas. Egg bait (a mixture of water and liquid egg) is used as a bait to attract the eye gnats. By this unique “trap-out method” the eye gnat population is suppressed. To suppress flies, the District primarily uses public education and advises farmers and homeowners on the removal of fly breeding habitats, since good sanitation is the answer to fly suppression. In addition, the District uses disposable traps and a “trap-out” method to lower fly populations, mostly around prominent public areas.

4. **Public Education** - The District informs, educates, and promotes public awareness of the District and its programs, services, and activities by using media contact and community interactions that involves presentations at local venues, such as senior centers, health fairs, home owners associations, and other city, government and community based associations.
VECTORS AND VECTOR-BORNE DISEASES IN THE COACHELLA VALLEY

MOSQUITOES

Mosquitoes and their habitats have long been associated with human disease. In 1878, the mosquito became the first arthropod to be definitively identified as a host of a human pathogen. Research since then has gone on to show that mosquitoes are the most important arthropods affecting human health. Mosquitoes are vectors of many important diseases including malaria, dengue, yellow fever, encephalitis, and filariasis. Most of these diseases are still major problems in many parts of the world, and used to be important to public health in the US. In California the encephalitis viruses are the only major pathogens of concern currently transmitted by mosquitoes. However, there is growing concern that viruses transmitted by invasive Aedes mosquitoes will be transmitted as movement of people and goods increases and the population of Aedes mosquitoes becomes established in California.

Mosquitoes generally are most abundant where there is adequate vegetation for harborage and where water is standing or stagnant; however, they occur in nearly every region of every continent except Antarctica. Worldwide there are approximately 3,500 described mosquitoes, of which about 50 species reside in CA. There are about a dozen species that live in the Coachella Valley. Although mosquitoes have seasonal cycles with periods of dormancy throughout most of the state, the Coachella Valley’s warm climate allows mosquitoes and other vectors to be active year round.

Mosquitoes begin their life in an aquatic environment when they hatch out of their eggs. They go through two life stages, called larvae and pupae, in the water before emerging as adults. Mosquitoes breed in almost every known aquatic environment except very swift currents and open bodies of water. The mosquito breeding habitats in the Coachella Valley range from the marshes around the Salton Sea to irrigated lands, storm water basins, neglected pools, ponds, bird baths, or any artificial containers found in backyards.

BASIC MOSQUITO LIFE CYCLE

Pathogens are spread by mosquitoes when a female mosquito bites an infected host to obtain a blood meal. A pathogen that is present in the blood of the host can then be picked up by the mosquito. After the female has digested the blood and laid eggs she will seek out another host to feed upon. If the pathogen was able to survive and migrate to the salivary glands of the mosquito, then when the second host is bitten the microbe can be transmitted
to the organism through the saliva of the feeding mosquito. Most mosquitoes are not able to transmit harmful pathogens as each mosquito-borne disease causing organism can only survive in a few specific mosquito species. These same pathogens are also only capable of surviving and multiplying in select hosts, making the transmission of arboviruses dependent on the right vectors with the right pathogens feeding on the right hosts.

The following mosquito species are of concern in the Coachella Valley:

<table>
<thead>
<tr>
<th>SPECIES</th>
<th>HABITAT</th>
<th>ABUNDANCE</th>
<th>SEASON</th>
<th>DISEASE ASSOCIATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Culex tarsalis</em></td>
<td>Many</td>
<td>Great</td>
<td>Year Round</td>
<td>West Nile virus, St. Louis encephalitis, Western equine encephalitis</td>
</tr>
<tr>
<td><em>Culex quinquefasciatus</em></td>
<td>Many</td>
<td>Great</td>
<td>Year Round</td>
<td>West Nile virus, St. Louis encephalitis</td>
</tr>
<tr>
<td><em>Culex erythrothorax</em></td>
<td>Tule Ponds</td>
<td>Great</td>
<td>Year Round</td>
<td>None</td>
</tr>
<tr>
<td><em>Aedes vexans</em></td>
<td>Many</td>
<td>Great</td>
<td>Spring, Summer, Fall</td>
<td>None</td>
</tr>
<tr>
<td><em>Psorophora columbiae</em></td>
<td>Irrigated fields</td>
<td>Great</td>
<td>Spring, Summer, Fall</td>
<td>None</td>
</tr>
<tr>
<td><strong>Culiseta inornata</strong></td>
<td>Marshes, Ponds</td>
<td>Moderate</td>
<td>Winter</td>
<td>None</td>
</tr>
<tr>
<td>----------------------</td>
<td>----------------</td>
<td>----------</td>
<td>--------</td>
<td>------</td>
</tr>
</tbody>
</table>

**Aedes aegypti**
- **Backyard sources**: plant saucers, birdbaths, toys
- **Low**
- **Year Round**
- **Yellow fever virus, Dengue virus, Chikungunya virus, Zika virus, Mayaro virus**

*Culex tarsalis* (*Western Encephalitis Mosquito*) is the primary vector of West Nile virus (WNV), Saint Louis encephalitis (SLE), and the Western equine encephalomyelitis (WEE) viruses. *Cx. tarsalis* is also the most abundant mosquito species found in the Coachella Valley. This mosquito lives in a variety of aquatic sources ranging from clean to polluted waters, and is also able to tolerate high salinity levels such as some of the water bodies around the Salton Sea. While found in urban and suburban habitats, *Cx. tarsalis* is most commonly associated with agricultural sources. Although host-seeking shows a preference for feeding on birds, they will also target cattle, horses, and humans. Another important consideration of *Cx. tarsalis* is that they will fly long distances to find a blood meal (up to 16 miles), which is important in the distribution and transmission of arboviruses.

*Culex quinquefasciatus* (*Southern House Mosquito*) is the primary vector of WNV and SLE in urban and suburban areas. The larvae live in foul or highly polluted waters, artificial containers, septic tanks, catch basins, waste treatment ponds, and neglected swimming pools. Birds are the principal blood meal source; however, they will attack humans and invade homes.

*Culex erythrothorax* (*Tule Mosquito*) is associated with ponds containing tules or cattails. Peak biting activity for this species occurs one to two hours after sunset, but it will also bite during the day in shaded areas. This species is not a vector of arboviruses, but can be a major pest to people and animals that are near tule/cattail ponds.

*Aedes vexans* (*Inland Floodwater Mosquito*) while not a main vector of disease; this species tends to be quite pestiferous and are aggressive day and night biters. Large mammals including humans are the usual blood sources, but birds are also targeted occasionally.

*Psorophora columbiae* is a highly pestiferous floodwater mosquito that breeds in irrigated fields and pastures and can develop from egg to adult in just 4 days. Adult *Ps. columbiae* are found from April to November with peak abundance occurring in July and August. The females are fierce day or night biters. In California, this species has little vector potential for the transmission of human diseases, but it is a major pest species in the agricultural areas of the southern desert.

Updated May 2017
**Aedes aegypti** (Yellow Fever Mosquito) is an invasive species that was originally located in Africa but is now found throughout the tropical and subtropical regions in the world. The females are day biters, and the mosquito has the capacity to vector yellow fever, dengue, chikungunya, Zika, and Mayaro viruses, as well as other diseases. It differs from other mosquitoes in that eggs are laid singly above the water line and then hatching when wetted. Eggs can remain dormant for extended periods. This, along with the mosquitoes’ proclivity for biting mammals and laying eggs near very small amounts of water, make them an especially difficult species to control.

**RED IMPORTED FIRE ANTS – RIFA**

In the late 1930s, the Red Imported Fire Ant (RIFA), *Solenopsis invicta Buren* was introduced to the United States from South America, at the port of Mobile, Alabama. Natural dispersal of RIFA (approximately five miles a year) is by means of nuptial flights. However, long distance spread of the RIFA has largely been due to movement of RIFA infested grass sod, ornamental plants, farm machinery, hay bales, and even beehives.

RIFA, within its natural habitat in South America, and in its recently adopted home range in the southern and southeastern North America in the past 50 years, exhibit a preference for moist soil environment and mild winters. RIFA Colonies were discovered in California, in October 1998, in the Trabuco Canyon area in Orange County. Further survey has also found infestations of RIFA in many locations in Orange, Los Angeles, Riverside, San Diego, and San Bernardino counties.

The Coachella Valley is an arid desert that is not naturally suitable for RIFA survival. Due to the long and extremely high temperature summers and dry conditions, multiple irrigations artificially maintaining golf courses, manicured lawns, flower beds and other horticultural landscapes, the Valley provides moist and relatively cool conditions conducive to RIFA survival. RIFA colonies were first identified in Palm Springs in 1998. Their exact origin and time of introduction into the Valley remain obscure.

RIFA respond rapidly and in great numbers to any disturbance of their nest or food resource and begin stinging long before you or your pet even realize you have stepped on them. RIFA sting by grasping its victim with its mandibles (jaws) and repeatedly jabs the stinger into the skin while pivoting around in a tiny circle. The result is a small, acutely painful, itchy welt on the skin that develops into a pustule (small, firm blister-like sore) in 24 to 48 hours. RIFA

Updated May 2017
colonies are often found near edges of properties (against sidewalks and driveways), in trees, and in electric boxes and sprinkler systems.

The RIFA program objective is to reduce the abundance and distribution of ants within the Coachella Valley and to maintain and suppress the RIFA infestation to a level where they no longer represent a serious nuisance to the residents of the Valley. The funding for the program is provided by the benefit assessment, established in 2005, that resulted in expended and more proactive services to monitor and control RIFA within the jurisdiction of the District.

**Eye Gnats**

Since agriculture was first introduced in the Coachella Valley, eye gnats have been a problem. The magnitude of the eye gnat problem prompted the authorities to form the Coachella Valley Mosquito Abatement District in 1928.

Eye gnats (*Hippelates collusor*) are prevalent in the warm dry regions of the southern United States, primarily in parts of California and Arizona. They are small, non-biting flies, measuring approximately 1.5 to 2.5 millimeters in length and are attracted to sebaceous secretions, pus, and blood becoming mechanical vectors of the bacterial eye disease conjunctivitis, commonly known as “pink eye”.

The majority of eye gnats develop in light, well-drained, sandy soils that are freshly plowed and contain abundant humus or vegetable matter and sufficient moisture. The ideal temperature for eye gnat activity is 90°F to 100°F. Temperatures below 70°F result in a decrease of eye gnat activity, however, they can survive freezing temperatures.

The control methods in the past included different types of attractant baits mixed with pesticides that were placed mostly in agricultural fields. Currently, the District provides traps, supplied with non-toxic liquid egg bait to attract and remove eye gnats from agricultural areas and country clubs (“trap-out method”). Changes to agricultural practices, specifically introduction of drip irrigation instead of flood irrigation, have been a great help in eye gnat prevention.

In addition to the spread of disease, their annoying and persistent buzzing around human eyes, mouth, nose, or wounds classify them as nuisance insects that can cause economic losses by lowering productivity of exposed workers and reduce outdoor recreational activities.
Filth flies consist of several families of non-biting flies that live in close association with humans and that thrive by taking advantage of domestic and agricultural wastes. The flies are attracted to foul odors and filth such as garbage, sewage, piles of grass clippings, rotting fruits and vegetables, animal droppings, and other moist, decaying, organic matter in which they live, feed, and lay their eggs.

The life cycle of a fly consists of four life stages - egg, larvae (maggot), pupae, and adult. Adults can live up to twenty-five days and reproduce quickly and frequently. Each female can lay approximately one thousand eggs during her lifetime. Eggs develop into adults in as few as four days and these adults can reproduce again at three days old. The rapid turnover of reproduction means that flies can produce thirty to thirty-five generations per year, more in warmer climates like in the Coachella Valley.

The flies most commonly found in the Coachella Valley can be divided into three groups: house flies, flesh flies, and blow flies. House flies (of the Muscidae family) are found throughout the Coachella Valley and are true opportunists. Flesh flies (of the Sarcophagidae family), prefer food sources that are of an animal origin. They feed and breed on pet droppings, food wastes in garbage, and dead animals. Blow flies (of the Calliphoridae family) are large metallic colored flies which utilize animal based materials to feed on and reproduce in. In the urban sections of the valley, they are the fly most commonly found in connection with pet droppings and trash cans. In the rural sections of the valley, blow flies are found with culled fish and dead animals.

Filth flies are mostly considered nuisances, but also are capable of transferring pathogens as mechanical vectors. Flies have been found to be effective vectors of hundreds of pathogens including E. coli and Salmonella.

The District takes action against filth flies by placing fly bottle traps throughout the agricultural locations of the Valley to remove flies from the environment ("trap-out method"). Traps are baited with non-toxic, environmentally safe liquid egg bait. The District also actively encourages the prevention of flies through community education which emphasizes the importance of proper sanitation to eliminate filth fly feeding and breeding sources.
The rodents of the Coachella Valley are categorized into two divisions;  
- commensal (Latin – *cum mensa* - “sharing table”)  
- native rodents

*Commensal rodents* live in close association with humans and are very adaptable to their environment. They are not indigenous to North America but accompanied humans as stowaways on immigration and trade ships. The native rodent species of the valley are indigenous to the natural desert environment and tend to live in areas of sparse human habitation. The roof rat (*Rattus rattus*) is a common commensal rodent in the Coachella Valley neighborhoods, originated in India and Southeast Asia and largely confined in warmer areas in distribution. Roof rats are moderate sized rodents that are generally dark in color. They are nocturnal and omnivores, with preferences to grains, fruits, and vegetables. The close association of commensal rodents with humans can be the source of a variety of pathogens, including *Salmonella*.

Sanitation is the backbone of a successful rodent control program. The elimination of rodent shelter, food, and water can mean the difference between success and failure in controlling rodents. Rodent proofing is also an essential step to having a successful control program.

The District conducts block and home surveys to evaluate possible rodent habitation, sources of food, water, harborage, and entry points to the home. The purpose of the outreach program is to provide guidance to the public on cost-effective rodent *prevention, exclusion, and control*. The District staff generates educational material, to educate the public about the rodent problem and guide them to prevent, suppress and control rodents on their properties. The District also offers glue boards to the public for the use of capturing animals if needed.

The Coachella Valley is home to several *native rodent species*. For the most part, these species do not have regular human interactions and consequently are not a concern to Valley residents. There are few that pose possible public health risks and are therefore monitored by the District staff. The Deer Mouse (*Peromyscus maniculatus*) is one of them. It is a small rodent that is a host for *Sin Nombre* virus, a pathogen that causes hantavirus pulmonary syndrome. The virus is shed in the rodent’s urine, feces, and possibly saliva. It is generally not found in elevations of less than 1500 feet. Humans are most susceptible to infection when they disturb enclosed, poorly ventilated areas contaminated with rodent excreta. The District conducts regular disease surveillance for *Sin Nombre* virus in the local mountains where community residents may frequently visit.
INTEGRATED VECTOR MANAGEMENT

As noted, the District’s services address several types of vectors and share general principles and policies. These include the identification of vector problems, responsive actions to control existing populations of vectors, prevention of new sources of vectors from developing, and the management of habitats in order to minimize vector production. It also includes the education of landowners and residents in general on measures to minimize vector production or interaction with vectors, and the provision and administration of funding and institutional support necessary to accomplish these goals.

In order to accomplish effective and environmentally sound vector management, the manipulation and control of vectors must be based on careful surveillance of their abundance, habitat (potential abundance), pathogen load, and/or potential contact with people; the establishment of treatment criteria (thresholds); and appropriate selection from a wide range of control methods. This dynamic combination of surveillance, treatment criteria, and use of multiple control activities in a coordinated program is generally known as Integrated Pest Management or IPM (Glass 1975, Davis et al 1979, Borror et al 1981, Durso 1996, Robinson 1996). When applied to specific control of disease vectors the same principles of IPM are used but the process is referred to as Integrated Vector Management or IVM which differentiates the District, whose primary purpose is vector control, from organizations whose sole purpose is control of nuisance or pest organisms.

The CVMVCD Vector Management Program, like any other IVM program, by definition involves procedures for minimizing potential environmental impacts. The District employs IVM principles by first determining the species and abundance of vectors through evaluation of public service requests and field surveys of immature and adult vector populations, and then, if the populations exceed predetermined criteria, using the most efficient, effective, and environmentally friendly means of control. For all vector species, public education is a vital part of the control strategy, and for some vectors (such as rodents and ticks), it is the District’s primary control method. In some situations, water management or other physical control activities (historically known as “source reduction” or “permanent control”) are instituted to reduce vector-breeding sites. The District also uses biological control such as the planting of mosquitofish in ornamental ponds, unused swimming pools and other standing water bodies. In conjuncture with these methods of control, environmentally safe control products are used to treat specific pest-producing or pest-harboring areas.

The District is organized into three principle sections to accomplish IVM. First, the administrative department provides leadership, expertise, public relations, education, and interfaces with other governmental authorities.

Second, the operations program of the District includes technicians who perform IVM operations in the field. Each technician is assigned an area of operation, with the technician responsible for control activities in his or her area. The technician has considerable autonomy in performing duties and, therefore, benefits from information on risk assessment through continuing education and direct communication from the District’s professional staff. Technicians also perform surveillance by responding to resident complaints and by extensive examination of aquatic sites for mosquito larvae. Technicians also monitor their areas to be sure that their control efforts have been successful.

Updated May 2017
Finally, a surveillance and laboratory department provides authoritative risk assessments; supplements surveillance performed by technicians; interacts with local government agencies for long-term reduction of vector sources; and performs operational research in support of IVM.

The District maintains the capability of applying aerosolized insecticide for area treatment of adult mosquitoes. This method is used to supplement larval control when conditions warrant its use to reduce the threat to public health.

The following is a summary of the CVMVCD efforts to apply IVM to the vectors and issues outlined above.
Surveillance

Surveillance is one of the key components of an effective Integrated Vector Management (IVM) program. Surveillance includes monitoring and analyzing environmental data, mosquito abundance, mosquito infections, and avian infections to interrupt mosquito virus transmission before human disease occurs. In addition, surveillance is also used to determine the effectiveness of operational control efforts at reducing mosquito numbers, prioritizing District resources in control, and monitoring resistance in local mosquito populations. The District’s surveillance plan is available on the District’s website (http://cvmvcd.org/public_doc.htm) and is based on a document titled “California Mosquito-borne Virus Surveillance and Response Plan” that is written and published as a collaboration between the California Department of Public Health (CDPH), the University of California (UC) and the Mosquito and Vector Control Association of California (MVCAC). This document is available as a PDF on the website: http://westnile.ca.gov.

The components of the arbovirus transmission surveillance program are used in a Risk Assessment form, also created by CDPH, UC, and MVCAC. These different elements are briefly described below in order of theoretical lead-time provided by the element to prevent arbovirus transmission to humans.

Climate
The two major components of climate variation that affect mosquito-borne diseases are temperature and water. The sources of environmental water in the District are precipitation and the Salton Sea level. However, rain is so infrequent in the Coachella Valley, and water going into the Salton Sea has been in a steady decline with no signs of turning around, that the major source of climate variability week to week is temperature. The temperature is monitored routinely from a weather station in Thermal as this is in the region where arboviruses are first detected in the Valley.

Mosquito Abundance
Adult mosquito abundance is surveyed by the use of traps. CO₂ traps use carbon dioxide to attract female mosquitoes seeking to bite an organism; 109 traps are set (53 set weekly in the city areas and 56 set biweekly in the rural, agricultural areas, and shorelines of the Salton Sea in the southeast end of the valley. Gravid traps are used in the city areas from Palm Springs and Desert Hot Springs down to La Quinta and Coachella. This type of trap works well at attracting and capturing Cx. quinquefasciatus seeking to lay eggs. Two additional trap types are used to collect Ae. aegypti mosquitoes – BG sentinel traps are paired with carbon dioxide to capture mosquitoes seeking to bite a person while Autocidal Gravid Ovitraps (AGO's) are used to capture female mosquitoes looking to lay eggs.

All types of traps are set in the afternoon and then collected first thing the next morning. The mosquitoes are brought back to the lab, immobilized and then sorted by species and counted under a microscope. Traps for Culex mosquitoes are kept in the same locations year after year to allow comparisons to be made across time in the District. As mosquito abundance increases so does the risk for virus transmission. The abundance data from 12 of these traps, with historically high Cx tarsalis numbers and arbovirus prevalence, are used in the Risk Assessment model.
MOSQUITO INFECTIONS
Early virus activity can be detected by testing adult female mosquitoes for viral infection. The two species that play a role in arboviral transmission in the District, *Cx. tarsalis* and *Cx. quinquefaciatus*, are the species tested at the District. The mosquitoes are collected as described in the section above. After being counted they are placed in groups (pools) of up to 50 females in a small tube. The mosquitoes are tested for SLE, WEE, and WNV. The number of positive pools divided by the total number of mosquitoes tested is used to calculate the Multiplicity of Infection Rate (MIR), which is used is the Risk Assessment model.

*Aedes aegypti* female mosquitoes are sorted into groups of up to 50 females in a small tube. The mosquitoes are stored frozen at -80°C and shipped overnight on dry ice to preserve virus to the UC Davis Arbovirus Research and Testing (DART) Center. The mosquitoes are tested for SLE, WEE, and WNV; they are then also tested for Chikungunya, Dengue, and Zika (CDZ) viruses.

DEAD BIRDS
Given that WNV causes high mortality in some species of birds, especially in the family Corvidae (crows, ravens, jays), testing dead birds has become a useful surveillance method for WNV in much of the state. In the Coachella Valley there are few corvids and other lethally susceptible bird species, as well as large expanses of land that are remotely traveled by people, so dead bird monitoring is a very small component of our District’s surveillance program. As part of the statewide WNV surveillance program, the District receives information on where WNV dead birds are occurring across the state, and this information is used in the Risk Assessment model.

HUMAN INFECTIONS
Reports of human mosquito-borne infections to the District are used to implement control activities to prevent further human infections. Unfortunately, human cases are not very sensitive as a surveillance tool. Most human cases are asymptomatic and therefore unreported. Additionally, many symptomatic cases cause non-specific symptoms that are not definitively diagnosed. There can also be a large lag time between when a physician sends a sample for testing and when the results are reported back to the District. This piece of data makes up the final component of the Risk Assessment model.

The 5 elements of the Risk Assessment model are given numerical values of 1-5 and are then totaled and averaged. The average score is used to determine the Response Level; Normal Season (1.0 – 2.5), Emergency Planning (2.6 – 4.0), Epidemic (4.1 -5.0).

The various surveillance information, especially trap numbers and mosquito infections, is used by the Operations Department to plan workflows and conduct effective mosquito control every day. A mosquito control district has limited resources of personnel, equipment, and pesticides. Surveillance is the key to using these resources effectively, concentrating efforts on the problem areas and not just guessing where the virus is, where to use control products, and where mosquitoes are most abundant.

Another important parameter mentioned in the first paragraph, that is monitored, is insecticide resistance. Insecticide resistance is the ability of the pests to survive the lethal effects of the insecticides. This is monitored by testing different pesticides against mosquitoes captured in
the field and mosquitoes reared inside the laboratory. A difference in the susceptibility of the different mosquitoes to the pesticides being tested is observed. If it appears that the mosquitoes from the wild are resistant to a certain pesticide, the information is relayed to the Operations Department so they can use different insecticides to control the mosquitoes.
EFFICACY AND QUALITY CONTROL

Vector control has been seriously challenged by the threat of new vector-borne diseases, limited availability of control tools, resistance concerns, public perceptions, and environmental and regulatory concerns. The District’s Integrated Vector Management (IVM) program is designed to address listed issues and is charged with the responsibility of developing, evaluating, and encouraging compliance with the Best Management Practices (BMP), both employed by the District as well as by the community organizations.

The Best Management Practices (BMPs) are recommended land and water management practices that can provide a reduction in mosquito populations through prevention, reduction or elimination of breeding habitats, increasing the efficacy of biological controls and chemical controls, and improving access for control operations. The program also includes methodologies of developing, evaluating, and encouraging compliance with best management practices employed by the District, as well as by community organizations such as, but not limited to, Cities, Home Owners Associations and golf courses.


In support of the development of the District’s IVM program, the District developed the Efficacy and Quality Control Program (EQCP) that evaluates efficacy of control methods and strategies that are utilized by the Operations Department.

The District objective of the EQCP is to ensure that the level of quality of products used, activities and services provided will meet specific requirements and that they are dependable, acceptable, environmentally friendly, and fiscally sound.

The EQCP includes efficacy trials for evaluation of chemical, physical, and biological methodologies that are used by the Operations Department for mosquito control in specific habitats. Efficacy trials can be performed in the field, in the laboratory or microcosm test ponds at the District. The trials are designed to:

- Detect potential control product resistance,
- Determine the correct application rate of each product for the specific habitats for desert climate,
- Establish standards of application for products used for the control of vector and nuisance species

The purpose of the trials and assessments is to enhance District control operations and provide the best and financially sound solution without compromising the final outcome of control measures.

An effective mosquito management plan requires routine assessment and adaptive management to address changing conditions or unforeseen effects. The District recognizes that certain land/water management practices can reduce mosquito populations; thereby reducing long-term mosquito control costs overall and, at the same time, continuing to help protect the public health from mosquito-borne diseases.
**BIOLOGICAL CONTROL**

Important components of the District’s integrated vector control measures are the use of a cost-effective and environmentally favorable long-term measures and commitment in applying the latest integrated methods, to manage vectors and suppress disease distribution in the area. In an effort to control mosquitoes, with less reliance on the use of pesticides, the District promotes the research and application of potential biological control agents that are suitable for the desert habitat.

Biological control is defined as the reduction of vectors or nuisance populations by natural enemies and typically involves an active human role. Biological control agents include predators, parasites, and pathogens. There are three basic types of biological control strategies: conservation, classical biological control, and augmentation.

While conservation promotes protection and support of naturally existing biological agents in the habitat, classical biological control includes the introduction of new species in the new location and involves an active human role. When introducing a biological control to a habitat a primary concern is the prey specificity of the control agent. Generalist feeders often make poor biological agents, and may become invasive species themselves. Successful biological control reduces the population densities of the prey over the long term. Augmentation involves the supplemental releases of natural enemies and sometimes includes habitat manipulation.

**MOSQUITOFISH**

The most successful biological agent for mosquito control is the mosquitofish, *Gambusia affinis*, (Baird and Girard). The widespread use of mosquitofish in control programs resulted in its worldwide distribution. Initially introduced into California in 1922, the fish have become one of the most efficient natural methods for controlling mosquito populations.

- Mosquitofish are native to the watershed of the Gulf of Mexico, where it has long been known that they feed readily on the aquatic stages of mosquitoes.
- They are remarkably hardy, surviving in waters of very low oxygen saturations, high salinities, high or low water temperatures, and organic pollution.
- Mosquitofish live two to three years.
- They are live-bearing fish which gives their young a much higher survival rate than in most species of egg-laying fish, which typically suffer from egg predation.
• Individual populations have been recorded expanding from 7,000 to 120,000 in five months.
• Mosquitofish are an ideal predatory control organism in habitats such as backyard sources, neglected pools, reservoirs, retention/detention basins, and other bodies of water that do not drain into natural waterways
• Stocking is used for instant control (periodic flooding) or sustained control (permanent flooding) of immature mosquitoes.

**Research**

The District performs applied research projects in collaboration with universities, government agencies, and private companies. Historically, the District has worked extensively with UC Riverside and UC Davis in mosquito research. Examples of this research include measurement of the flight range of *Culex tarsalis*, optimizing adult mosquito control using ULV ground and aerial control, distribution of tadpole shrimp, a biocontrol agent, use of mosquitofish in mosquito control, location of *Culex* egg rafts in a West Nile virus focus, influence of water quality and wetland management on mosquito production in treatment wetlands. Research in recent years has maintained collaborations with UC Davis and UC Riverside and expanded to include the University of Texas A&M, University of Miami, and USDA to meet the changing needs of the District. Research through Texas A&M consists of optimizing Red Imported Fire Ants (RIFA) surveillance techniques, development of ant bait treatment and determining the population structure of RIFA in Coachella Valley.

Most recently, UC Davis research projects include the monitoring of mosquito-borne viruses and evaluation and optimizing of mosquito vector species control. UC Riverside research projects have included the flight paths of filth flies as well as the use of attractive sugar bait stations with fungus to control adult mosquitoes. USDA research projects have examined the efficacy of a water resistant fire ant bait.

The USDA and the US Navy have jointly conducted research within the Valley, with the assistance of District staff, to study effective methods of applying adulticides, testing the longevity of product efficacy in a hot dry environment and testing products for mosquito and filth fly control in the desert.

Private companies have also performed research with the District on new mosquito control products. These research opportunities allow the District to learn from some of the best scientists in vector control as well as to be at the forefront of Integrated Vector Management (IVM) practices.
IT/GIS PROGRAM

The District’s Mobile Inspection Application is a Geographical Information System (GIS), which integrates the use of hardware, software, and data for capturing, managing, analyzing, and displaying geographic features. GIS uses the Global Positioning System (GPS), a satellite-based navigation system developed by the U.S. Department of Defense, which allows mobile devices equipped with GPS receivers, to associate location (latitude, longitude, altitude, etc...) information to data. These systems allow the District to model features on the earth’s surface as points, lines, or polygons. For example, in vector control, a green pool may be modeled as a point and a duck club or golf course may be modeled as a polygon.

Incorporating GIS into the District’s inspections, chemical applications, and larvae samples assists the District to generate more accurate records, increase efficiency, and enable the complete automation of many data entry tasks.

GIS data is provided to vector control technicians in the field utilizing a web service published on the Internet. A locally installed GIS application synchronizes data directly with the District’s internal database server. This allows both office staff and vector control technicians to instantly send/receive service requests and view updates made in the field regardless of their location. The application has the ability to operate in a disconnected mode, allowing the information to be cached locally and updates the database server when an Internet connection is reestablished.

The District partnered with Environmental Systems Research Institute’s (ESRI), Professional Services, to develop a system to meet a series of challenges and opportunities. The system is contributing value to the Coachella Valley Mosquito and Vector Control District through:

- Increased accessibility to data to all staff levels using GIS Software.
- Improved management of pesticide applications through real-time reporting.
- Higher quality of decision making “in-the-field” accessing treatment history to evaluate and determine the appropriate treatment method.
- Disseminates zone knowledge (organizational knowledge) throughout the organization via digitized sources site base maps.
- Reduction in labor costs associated with training new or current vector control technicians in surveying new or different zones.
- Centralized data management ensures the standardization and integrity of data.
- Reduction in printing related costs from electronic distribution of service request, follow-ups and vector control technician dailies.
- Increased efficiency identifying/servicing Neglected Pools by eliminating known pebble tec pools and artificial turfs from Neglected Pool Flights.
- Incorporates the District’s CalSurv Gateway Trap Surveillance Data hosted by UC Davis.
- Overlays Irrigation Standpipe Data provided by the Coachella Valley Water District.

The Mobile Inspection Application has been in production since 2009 and by April 2017 is currently publishing approximately 13,410 point source sites, 2,192 polygon source sites, 21,607 inspections, 1,735 lab samples, 14,689 mosquito treatments, and 2,637 RIFA treatments.

Updated May 2017
PUBLIC OUTREACH

Public Outreach is a key component to an effective Integrated Vector Management program. It is critical that our stakeholders, including the public understand the District mission, its importance to community health, and the role each person or entity plays in controlling and reducing mosquito and vector populations in the Coachella Valley.

The District’s Public Outreach program has three main goals:

1. Raise awareness about the services the District provides, local vectors that pose a health threat to the public, and protection and prevention measures to reduce the risk of vector-borne disease transmission.
2. Encourage behavior change to reduce the creation of vector habitats or exposure to vector dangers.
3. Enhance the reputation of and public trust in the District.

In an effort to achieve these goals, the Public Outreach department uses a variety of channels to disseminate vector control and disease prevention information to Valley residents and partner agencies including:

- Clear and simple awareness materials
- Community events
- Student programs
- Media outreach
- Training
- Advertising
- Social media
- Website
- Call Center communication

Specific activities include community engagement with city and county officials, homeowner association, country club, and golf course management, community and school district leadership, and the general public; developing education and awareness materials, such as bookmarks, brochures, disease notification signs and postcards, annual reports, videos, and digital content for social media and websites; researching and pioneering targeted distribution channels for information materials; writing and distributing news releases, responding to media requests for interviews about mosquito and vector control, pitching stories to individual media outlets; presenting at schools, community and HOA meetings, city and county meetings, and partner agency gatherings, hosting booths at community and school fairs and festivals such as science fairs, science discovery days, East Valley resources fairs, and the Riverside County National Date Festival; hosting interns, job shadow students, and giving District tours; training partner agency staff how to control vectors and training District staff how to communicate District messaging effectively. The Call Center staff are under the supervision of the Public Information Manager, ensuring that consistent messaging is transmitted to the public. The Public Outreach Department also supports the development of District-sponsored events, such as races, block parties, and community clean ups to help achieve our education and awareness goals.

The Public Information Manager also participates at the state and national level, attending, presenting, and providing training at regional, state, and national association meetings.

Updated May 2017
INTERAGENCY PROGRAMS

The CVMVCD actively cooperates and exchanges with a wide range of other government agencies at county, state, and national levels. Among the relationships are:

- **Riverside County Department of Public Health** – Data sharing for threat assessment and coordination
- **Riverside County Department of Environmental Health** – Representation of the VCD’s interests,
- **Riverside County Division of Agriculture** – Insect identification, non-medical pests
- **Code Enforcement of Individual Cities** – Enforcement of sanitation and structural changes, management of neglected pools
- **City Park and Recreation Departments**
- **City Public Works Department** – Storm drain treatment and maintenance
- **Coachella Valley Water District** – Access to streams and agriculture channels, design of wetlands and other structures
- **California Department of Fish and Game** – Wildlife management and surveillance
- **California Department of Public Health Services** – Laboratory support, interaction with other districts, collation of data, certification of technicians
- **US Fish and Wildlife Service** – Permits and regulations; wildlife management
**IMPORTANT CONTACTS & RESOURCES**

**DISTRICT STAFF:**
- General Manager  
  – Jeremy Wittie, MS  
  Cell: 760-399-06941  
  Email: jwittie@cvmvcd.org

- Administrative Finance Manager  
  – David I’Anson  
  Cell: 760-625-6436  
  Email: dianson@cvmvcd.org

- Laboratory Manager  
  – Jennifer Henke  
  Cell: 760-541-2083  
  Email: jhenke@cvmvcd.org

- Human Resources Manager  
  – Anita Jones  
  Cell: 760-625-6568  
  Email: ajones@cvmvcd.org

- Information Technology Manager  
  – Edward Prendez  
  Cell: 760-574-4323  
  Email: eprendez@cvmvcd.org

- Public Information Manager  
  – Jill Oviatt  
  Cell: 760-289-9298  
  Email: joviatt@cvmvcd.org

- Executive Assistant/Clerk of the Board –  
  Crystal Moreno  
  Cell: 760-625-6573  
  Email: cmoreno@cvmvcd.org

**AMERICAN MOSQUITO CONTROL ASSOCIATION**  
E-mail: amca@mosquito.org  
1120 Route 73; Suite 200  
Mount Laurel, NJ 08054  
Phone: (856) 439-9222

**STATE DEPARTMENTS:**  
- California Department of Public Health,  
  Vector-Borne Disease Section -  
  [http://www.cdph.ca.gov/programs/vbds/Pages/default.aspx](http://www.cdph.ca.gov/programs/vbds/Pages/default.aspx)  
- Department of Fish and Game - Threatened & Endangered Species -  
  [http://www.dfg.ca.gov/habcon/](http://www.dfg.ca.gov/habcon/)  
- Department of Pesticide Regulation -  
  [http://www.cdpr.ca.gov/](http://www.cdpr.ca.gov/)  
- California West Nile Virus Website -  
  [http://www.westnile.ca.gov/](http://www.westnile.ca.gov/)

**NATIONAL ASSOCIATIONS:**  
- American Institute of Biological Sciences -  
  [http://www.aibs.org/home/index.html](http://www.aibs.org/home/index.html)  
- American Mosquito Control Association  
  [http://www.mosquito.org](http://www.mosquito.org)  
- Association of Structural Pest Control Regulatory Officials (ASPCRO) -  
  [http://www.aspcro.org/htbin/aspcro.com](http://www.aspcro.org/htbin/aspcro.com)  
- Centers for Disease Control -  
- Entomological Society of America -  
- Society for Vector Ecology -  
  [http://www.sove.org](http://www.sove.org)  
- USGS West Nile Virus National & State Maps -  

**MOSQUITO AND VECTOR CONTROL ASSOCIATION OF CALIFORNIA**  
E-mail: mvcac@mvcac.org  
One Capitol Mall, Suite 320  
Sacramento, California 95814  
Phone: (916) 440-0826

Updated May 2017
II. THE LEGAL BASIS AND ROLE OF DISTRICT GOVERNING BOARDS

The Board of Trustees of mosquito abatement and vector control districts are empowered to undertake and carry out a vast number of duties under Health and Safety Code Sections 2000-2093. Initial establishments of district administration and procedural guidelines are required to separate the functions of trustees from those of management. Decisions regarding policy and oversight of the operation and administration of districts are of prime concern to all members of the Board of Trustees.

ADMINISTRATION

The array of powers given to district boards is included in the Health and Safety Code. The primary function of the Board of Trustees is the establishment of policies and the definition of guidelines. The Board employs the General Manager and delegates the authority to the General Manager to execute these policies and guidelines on a daily basis. The General Manager communicates with the Board and provides the information necessary to make intelligent decisions regarding such matters. Once policies are set, Trustees must, both individually and collectively, recognize and respect the separation of the functions of the executor (the General Manager) and the policy makers (the Board of Trustees).

TRUSTEE RESPONSIBILITIES

This manual presents background information to aid individual Board members in decision making to better fulfill the obligations to their constituency, to the District, and to the staff that serves them, and to aid in the effectiveness of the whole Board and its members.

Various legislative provisions have been enacted under the California Government Code to prevent abuse of public trust as well as to protect representatives from public abuse through false claims.

The Brown Act was passed to assure accessibility to the transactions of all public agencies by the public and the media. Exceptions to public accessibility are provided for by allowing closed sessions related to specific items such as land negotiations, conferences with legal counsel regarding litigation, security and certain employee matters, as defined.
TRUSTEE CONDUCT AND STAFF RELATIONS

POLICY MATTERS
Trustees should consult with the General Manager on all policy related issues that are within the subject matter jurisdiction of the Board of Trustees. Trustees, however, may not direct a Department Head or staff to engage in any research, investigation or review of any matter that will require the General Manager to spend more than a nominal amount of time on, unless approved by the Board of Trustees.

TECHNICAL AND PROCEDURAL MATTERS
Trustees may contact Department Heads regarding any technical or procedural matters that are within the given Department Head’s responsibilities, supervision or management.

PERSONNEL MATTERS
Trustees should contact only the General Manager or General Counsel regarding any personnel related matters.

CLOSED SESSION MATTER
Trustees shall not disclose or discuss anything disclosed, discussed or produced in Closed Session with anyone other than the General Manager or General Counsel unless otherwise directed by the Board of Trustees.

WRITTEN CORRESPONDENCE
Trustees shall provide a copy of any written correspondence between a Trustee and staff regarding any District business to the General Manager, and to General Counsel if the correspondence involves a legal matter.

ASSIGNMENTS
Individual Trustees are prohibited from assigning any work directly to staff without the permission or consent of the General Manager, unless otherwise directed approved by the Board of Trustees.

CRITICISM OR COMPLAINTS
Trustees should refrain from publicly criticizing or complaining about individual staff regarding performance, quality of work, character, etc. All such criticism or complaints should be conveyed directly to the General Manager or General Counsel.

SERIAL DISCUSSIONS
Trustees should refrain from asking or directing staff to solicit input from other Trustees regarding matters within the subject matter jurisdiction of the Board of Trustees to avoid potential violations of the Brown Act.

POLITICAL ACTIVITIES
Trustees shall refrain from soliciting staff for political support of any kind.

PERSONAL FAVORS
Trustees shall not solicit personal favors from staff unrelated to official District business.

Updated May 2017
EXECUTIVE OFFICER RESPONSIBILITIES

DESIGNATED ELECTED OFFICERS

The elected officers of the Board of Trustees ("Board") shall consist of:

1. President
2. Vice President
3. Secretary
4. Treasurer

DUTIES OF OFFICERS

1. President

- When necessary, the President will act as the official representative of the District. He/she shall have the power to appoint committees and subcommittees and such other powers as may be delegated by the Board from time to time.
- The President serves as the presiding officer of all Board meetings.
- The President signs all acts, orders, resolutions and proceedings of the Board.

2. Vice President

- In the temporary absence of the President, the Vice President assumes the duties of the President.

3. Secretary

- The Secretary assists the President, as necessary. In the temporary absence of the President and Vice President, the Secretary assumes the duties of the President.
- It is the duty of the Secretary to authenticate, by his/her signature when necessary, all the acts, orders and proceedings of the Board.

4. Treasurer

- In the temporary absence of the President, the Vice-President, and the Secretary, the Treasurer assumes the duties of the President.
- It is the duty of the Treasurer to serve as the Chair of the Finance Committee and to perform any other such duties assigned by the Board.
- The Treasurer shall exercise those duties as assigned to the Treasurer by the applicable provisions of the California Health and Safety Code.
TERMS OF OFFICE

The term of each office is one year – appointed at the January Board Meeting. No officer shall serve more than four consecutive terms in the office to which elected. Partial terms shall not be considered in determination of consecutive terms.

ELIGIBILITY TO HOLD OFFICE

Any Trustee may be elected to any office, provided that he or she has served as a Trustee for one calendar year.

ELECTION OF OFFICERS

Officers shall be elected annually, with the election held at the first regular meeting in the month of January. Commencement of officers’ terms takes effect immediately upon election to office.

Prior to the election of officers, the President shall appoint a Nominating Committee, which shall recommend one candidate for each office. Recommendations of the Nominating Committee shall be submitted to the Board for consideration at the January Board meeting. Nominations may be made from the floor when election of officer is held. Each Board member shall have one vote.

There shall be no automatic succession of officers upon the vacation of a superior officer position prior to the expiration term of the superior officer’s position. A vacated officer position shall be filled by a majority vote of the Board at the earliest time possible in the context of a noticed public meeting.
COMMITTEE ROLES AND RESPONSIBILITIES

STANDING COMMITTEES

The District has two (2) permanent standing committees that meet regularly: the Executive Committee and the Finance Committee. Both Committees are subject to Brown Act requirements and must have a formal agenda posted at least 72 hours in advance and be open to the public.

The **Executive Committee** is comprised of the Board Officers (President, Vice-President, Treasurer, and Secretary) who meet monthly to review the draft Board Meeting agenda.

The **Finance Committee** is comprised of the Treasurer and three (3) other Trustees who meet monthly to review the District’s Finances. The Board President is able to fill-in, if needed to make a quorum.

AD HOC COMMITTEES

ad hoc Committees are Committees that serve a specific purpose and do not meet regularly and are not subject to the Brown Act. Examples of ad hoc Committees that the District has had include the ad hoc Research Committee – tasked with reviewing research proposals and making recommendations to the full Board for approval – and the ad hoc Nominating Committee – tasked with nominating Trustees to serve as Executive Officers.
Appendix A
2020. A legislative body of at least five members known as the board of trustees shall govern every district. The board of trustees shall establish policies for the operation of the district. The board of trustees shall provide for the faithful implementation of those policies which is the responsibility of the employees of the district.

2021. Within 30 days after the effective date of the formation of a district, a board of trustees shall be appointed as follows:

(a) In the case of a district that contains only unincorporated territory in a single county, the board of supervisors shall appoint five persons to the board of trustees.

(b) In the case of a district that is located entirely within a single county and contains both incorporated territory and unincorporated territory, the board of supervisors may appoint one person to the board of trustees, and the city council of each city that is located in whole or in part within the district may appoint one person to the board of trustees. If those appointments result in a board of trustees with less than five trustees, the board of supervisors shall appoint enough additional persons to make a board of trustees of five members.

(c) In the case of a district that contains only unincorporated territory in more than one county, the board of supervisors of each county may appoint one person to the board of trustees. If those appointments result in a board of trustees with less than five persons, the board of supervisors of the principal county shall appoint enough additional persons to make a board of trustees of five members.

(d) In the case of a district that is located in two or more counties and contains both incorporated territory and
unincorporated territory, the board of supervisors of each county may appoint one person to the board of trustees, and the city council of each city that is located in whole or part within the district may appoint one person to the board of trustees. If those appointments result in less than five persons, the board of supervisors of the principal county shall appoint enough additional persons to make a board of trustees of five members.

2022. (a) Each person appointed by a board of supervisors to be a member of a board of trustees shall be a voter in that county and a resident of that portion of the county that is within the district.

(b) Each person appointed by a city council to be a member of a board of trustees shall be a voter in that city and a resident of that portion of the city that is within the district.

(c) Notwithstanding any other provision of law including the common law doctrine that precludes the simultaneous holding of incompatible offices, a member of a city council may be appointed and may serve as a member of a board of trustees if that person also meets the other applicable qualifications of this chapter.

(d) It is the intent of the Legislature that persons appointed to boards of trustees have experience, training, and education in fields that will assist in the governance of the districts.

(e) All trustees shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of this chapter. The trustees shall represent the interests of the public as a whole and not solely the interests of the board of supervisors or the city council that appointed them.

2023. (a) The initial board of trustees of a district formed on or after January 1, 2003, shall be determined pursuant to this section.
(b) The persons appointed to the initial board of trustees shall meet on the first Monday after 45 days after the effective date of the formation of the district.

(c) At the first meeting of the initial board of trustees, the trustees shall classify themselves by lot into two classes, as nearly equal as possible. The term of office of the class having the greater number shall expire at noon on the first Monday in January that is closest to the second year from the appointments made pursuant to Section 2021. The term of office of the class having the lesser number shall expire at noon on the first Monday in January that is closest to the first year from the appointments made pursuant to Section 2021.

2024. (a) Except as provided in Section 2023, the term of office for a member of the board of trustees shall be for a term of two or four years, at the discretion of the appointing authority. Terms of office commence at noon on the first Monday in January.

(b) Any vacancy in the office of a member appointed to a board of trustees shall be filled pursuant to Section 1779 of the Government Code. Any person appointed to fill a vacant office shall fill the balance of the unexpired term.

2025. (a) Under no circumstances shall a board of trustees consist of less than five members. Except as provided in Section 2026, the number of members who represent the unincorporated territory of a county may not exceed five members.

(b) A board of trustees may adopt a resolution requesting the board of supervisors of any county that contains territory within the district to increase or decrease the number of members of the board of trustees who represent the unincorporated territory of
that county within the district. The resolution shall specify the number of members and the areas of the unincorporated territory for which the board of trustees requests the increase or decrease.

(c) Within 60 days of receiving a resolution adopted pursuant to subdivision (b), the board of supervisors shall order the increase or decrease in the number of members of the board of trustees, consistent with the board of trustees' resolution.

(d) If the board of supervisors orders an increase in the number of members of the board of trustees, the board of supervisors shall appoint a person or persons to the board of trustees and specify their term of office, consistent with the requirements of this chapter. If the board of supervisors orders a decrease in the number of members of the board of trustees, the board of supervisors shall designate the trustee or trustees whose office shall be eliminated at the termination of the trustee's current term of office. Any trustee whose office is designated to be eliminated shall continue to serve until his or her term of office expires.

2026. (a) A local agency formation commission, in approving either a consolidation of districts or the reorganization of two more districts into a single district, may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, change the number of members on the board of trustees of the consolidated or reorganized district, provided that the resulting number of trustees shall be an odd number but not less than five.

(b) Upon the expiration of the terms of the members of the board of trustees of the consolidated or reorganized district whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of trustees shall be reduced until the number equals the number of members determined by the local agency formation commission.
(c) Notwithstanding subdivision (b) of Section 2024, in the event of a vacancy on the board of trustees of the consolidated or reorganized district at a time when the number of members of the board of trustees is greater than the number determined by the local agency formation commission, the vacancy shall not be filled and the membership of the board of trustees shall be reduced by one member.

2027. (a) At the first meeting of the initial board of trustees of a newly formed district, and in the case of an existing district at the first meeting in January every year or every other year, the board of trustees shall elect its officers.

(b) The officers of a board of trustees are a president and a secretary. The president shall be a trustee. The secretary may be either a trustee or a district employee. A board of trustees may create additional officers and elect members to those positions. No trustee shall hold more than one office.

(c) Except as provided in Section 2077, the county treasurer of the principal county shall act as the district treasurer. The county treasurer shall receive no compensation for the receipt and disbursement of money of the district.

2028. A board of trustees shall meet at least once every three months. Meetings of the board of trustees 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.
2029. (a) A majority of the board of trustees shall constitute a quorum for the transaction of business.

(b) Except as otherwise specifically provided to the contrary in this chapter, a recorded vote of a majority of those trustees present and voting is required on each action.

(c) The board of trustees shall act only by ordinance, resolution, or motion.

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

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

2030. (a) The members of the board of trustees shall serve without compensation.

(b) The members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business. In lieu of paying for actual expenses, the board of trustees may by resolution provide for the allowance and payment to each trustee a sum not to exceed one hundred dollars ($100) per month for expenses incurred while on official business. A trustee may waive the payments permitted by this subdivision.

(c) Notwithstanding subdivision (a), the secretary of the board of trustees may receive compensation in an amount determined by the board of trustees.

(d) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.
Appendix B
AGENDA ITEM

1. PUBLIC COMMENT: The City Council values your comments; however, pursuant to the Brown Act, Council cannot take action on items not listed on the posted agenda. The public comment period is limited to 20 minutes, with 2 minutes allotted for each speaker. This public comment period is to address the City Council on Consent Calendar items, other agenda items (if the member of the public cannot be present at the time the item is considered) or items of genera...
ACKNOWLEDGEMENTS

The League thanks the following individuals for their work on this publication:

Brown Act Committee

- Michael Jenkins, Committee Chair
  City Attorney, Hermosa Beach, Rolling Hills and West Hollywood
- Michael W. Barrett
  City Attorney, Napa
- Damien Brower
  City Attorney, Brentwood
- Ariel Pierre Calonne
  City Attorney, Santa Barbara
- Veronica Ramirez
  Assistant City Attorney, Redwood City
- Malathy Subramanian
  City Attorney, Clayton and Lafayette
- Paul Zarefsky
  Deputy City Attorney, San Francisco
- Gregory W. Stepanicich
  1st Vice President, City Attorneys’ Department
  City Attorney Fairfield, Mill Valley, Town of Ross

League Staff

- Patrick Whitnell, General Counsel
- Koreen Kelleher, Assistant General Counsel
- Corrie Manning, Senior Deputy General Counsel
- Alison Leary, Deputy General Counsel
- Janet Leonard, Legal Assistant
Open & Public V
A GUIDE TO THE RALPH M. BROWN ACT
REVISED APRIL 2016

CHAPTER 1: IT IS THE PEOPLE’S BUSINESS ....................................................5
CHAPTER 2: LEGISLATIVE BODIES .....................................................................11
CHAPTER 3: MEETINGS ...................................................................................17
CHAPTER 4: AGENDAS, NOTICES, AND PUBLIC PARTICIPATION ..................29
CHAPTER 5: CLOSED SESSIONS ....................................................................41
CHAPTER 6: REMEDIES .................................................................................55
TABLE OF CONTENTS

CHAPTER 1: IT IS THE PEOPLE’S BUSINESS ................................................. 5
- The right of access ........................................................................................................ 6
- Broad coverage ............................................................................................................ 6
- Narrow exemptions ...................................................................................................... 7
- Public participation in meetings .................................................................................. 7
- Controversy .................................................................................................................. 8
- Beyond the law — good business practices ................................................................. 8
- Achieving balance ....................................................................................................... 9
- Historical note .............................................................................................................. 9

CHAPTER 2: LEGISLATIVE BODIES ............................................................. 11
- What is a “legislative body” of a local agency? .............................................................. 12
- What is not a “legislative body” for purposes of the Brown Act? ............................... 14

CHAPTER 3: MEETINGS ............................................................................. 17
- Brown Act meetings ................................................................................................. 18
- Six exceptions to the meeting definition ..................................................................... 18
- Collective briefings ..................................................................................................... 21
- Retreats or workshops of legislative bodies ................................................................. 21
- Serial meetings ............................................................................................................ 21
- Informal gatherings .................................................................................................... 24
- Technological conferencing ....................................................................................... 24
- Location of meetings ................................................................................................. 25

CHAPTER 4: AGENDAS, NOTICES, AND PUBLIC PARTICIPATION .......... 29
- Agendas for regular meetings ...................................................................................... 30
- Mailed agenda upon written request ........................................................................... 31
- Notice requirements for special meetings .................................................................... 32
- Notices and agendas for adjourned and continued meetings and hearings ............... 32
- Notice requirements for emergency meetings .............................................................. 32
- Notice of compensation for simultaneous or serial meetings ..................................... 33
- Educational agency meetings ...................................................................................... 33
- Notice requirements for tax or assessment meetings and hearings .......................... 33
Non-agenda items ..................................................................................................................34
Responding to the public .......................................................................................................34
The right to attend and observe meetings ............................................................................35
Records and recordings .........................................................................................................36
The public’s place on the agenda ..........................................................................................37

CHAPTER 5: CLOSED SESSIONS .......................................................................................41
Agendas and reports ..............................................................................................................42
Litigation .................................................................................................................................43
Real estate negotiations ........................................................................................................45
Public employment ................................................................................................................46
Labor negotiations ................................................................................................................47
Labor negotiations — school and community college districts ............................................48
Other Education Code exceptions .........................................................................................48
Joint Powers Authorities .......................................................................................................48
License applicants with criminal records ............................................................................49
Public security .......................................................................................................................49
Multijurisdictional law enforcement agency .........................................................................49
Hospital peer review and trade secrets ...............................................................................49
Other legislative bases for closed session ............................................................................50
Who may attend closed sessions ........................................................................................50
The confidentiality of closed session discussions .................................................................50

CHAPTER 6: REMEDIES ......................................................................................................55
Invalidation ............................................................................................................................56
Applicability to Past Actions ...............................................................................................57
Civil action to prevent future violations .............................................................................57
Costs and attorney’s fees .....................................................................................................58
Criminal complaints ............................................................................................................58
Voluntary resolution ............................................................................................................59
Chapter 1

IT IS THE PEOPLE’S BUSINESS

The right of access .............................................................................................................. 6
Broad coverage ................................................................................................................... 6
Narrow exemptions ............................................................................................................ 7
Public participation in meetings ......................................................................................... 7
Controversy ......................................................................................................................... 8
Beyond the law — good business practices ................................................................. 8
Achieving balance ........................................................................................................... 9
Historical note ................................................................................................................. 9
Chapter 1

IT IS THE PEOPLE’S BUSINESS

The right of access

Two key parts of the Brown Act have not changed since its adoption in 1953. One is the Brown Act’s initial section, declaring the Legislature’s intent:

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

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

The people reconfirmed that intent 50 years later in the November 2004 election by adopting Proposition 59, amending the California Constitution to include a public right of access to government information:

“The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”

The Brown Act’s other unchanged provision is a single sentence:

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

That one sentence is by far the most important of the entire Brown Act. If the opening is the soul, that sentence is the heart of the Brown Act.

Broad coverage

The Brown Act covers members of virtually every type of local government body, elected or appointed, decision-making or advisory. Some types of private organizations are covered, as are newly-elected members of a legislative body, even before they take office.

Similarly, meetings subject to the Brown Act are not limited to face-to-face gatherings. They also include any communication medium or device through which a majority of a legislative body
discusses, deliberates or takes action on an item of business outside of a noticed meeting. They include meetings held from remote locations by teleconference.

New communication technologies present new Brown Act challenges. For example, common email practices of forwarding or replying to messages can easily lead to a serial meeting prohibited by the Brown Act, as can participation by members of a legislative body in an internet chatroom or blog dialogue. Communicating during meetings using electronic technology (such as laptop computers, tablets, or smart phones) may create the perception that private communications are influencing the outcome of decisions; some state legislatures have banned the practice. On the other hand, widespread cablecasting and web streaming of meetings has greatly expanded public access to the decision-making process.

**Narrow exemptions**

The express purpose of the Brown Act is to assure that local government agencies conduct the public’s business openly and publicly. Courts and the California Attorney General usually broadly construe the Brown Act in favor of greater public access and narrowly construe exemptions to its general rules.4

Generally, public officials should think of themselves as living in glass houses, and that they may only draw the curtains when it is in the public interest to preserve confidentiality. Closed sessions may be held only as specifically authorized by the provisions of the Brown Act itself.

The Brown Act, however, is limited to meetings among a majority of the members of multi-member government bodies when the subject relates to local agency business. It does not apply to independent conduct of individual decision-makers. It does not apply to social, ceremonial, educational, and other gatherings as long as a majority of the members of a body do not discuss issues related to their local agency’s business. Meetings of temporary advisory committees — as distinguished from standing committees — made up solely of less than a quorum of a legislative body are not subject to the Brown Act.

The law does not apply to local agency staff or employees, but they may facilitate a violation by acting as a conduit for discussion, deliberation, or action by the legislative body.5

The law, on the one hand, recognizes the need of individual local officials to meet and discuss matters with their constituents. On the other hand, it requires — with certain specific exceptions to protect the community and preserve individual rights — that the decision-making process be public. Sometimes the boundary between the two is not easy to draw.

**Public participation in meetings**

In addition to requiring the public’s business to be conducted in open, noticed meetings, the Brown Act also extends to the public the right to participate in meetings. Individuals, lobbyists, and members of the news media possess the right to attend, record, broadcast, and participate in public meetings. The public’s participation is further enhanced by the Brown Act’s requirement that a meaningful agenda be posted in advance of meetings, by limiting discussion and action to matters listed on the agenda, and by requiring that meeting materials be made available.

Legislative bodies may, however, adopt reasonable regulations on public testimony and the conduct of public meetings, including measures to address disruptive conduct and irrelevant speech.
Controversy

Not surprisingly, the Brown Act has been a source of confusion and controversy since its inception. News media and government watchdogs often argue the law is toothless, pointing out that there has never been a single criminal conviction for a violation. They often suspect that closed sessions are being misused.

Public officials complain that the Brown Act makes it difficult to respond to constituents and requires public discussions of items better discussed privately — such as why a particular person should not be appointed to a board or commission. Many elected officials find the Brown Act inconsistent with their private business experiences. Closed meetings can be more efficient; they eliminate grandstanding and promote candor. The techniques that serve well in business — the working lunch, the sharing of information through a series of phone calls or emails, the backroom conversations and compromises — are often not possible under the Brown Act.

As a matter of public policy, California (along with many other states) has concluded that there is more to be gained than lost by conducting public business in the open. Government behind closed doors may well be efficient and business-like, but it may be perceived as unresponsive and untrustworthy.

Beyond the law — good business practices

Violations of the Brown Act can lead to invalidation of an agency’s action, payment of a challenger’s attorney fees, public embarrassment, even criminal prosecution. But the Brown Act is a floor, not a ceiling for conduct of public officials. This guide is focused not only on the Brown Act as a minimum standard, but also on meeting practices or activities that, legal or not, are likely to create controversy. Problems may crop up, for example, when agenda descriptions are too brief or vague, when an informal get-together takes on the appearance of a meeting, when an agency conducts too much of its business in closed session or discusses matters in closed session that are beyond the authorized scope, or when controversial issues arise that are not on the agenda.

The Brown Act allows a legislative body to adopt practices and requirements for greater access to meetings for itself and its subordinate committees and bodies that are more stringent than the law itself requires. Rather than simply restate the basic requirements of the Brown Act, local open meeting policies should strive to anticipate and prevent problems in areas where the Brown Act does not provide full guidance. As with the adoption of any other significant policy, public comment should be solicited.

A local policy could build on these basic Brown Act goals:

- A legislative body’s need to get its business done smoothly;
- The public’s right to participate meaningfully in meetings, and to review documents used in decision-making at a relevant point in time;
- A local agency’s right to confidentially address certain negotiations, personnel matters, claims and litigation; and
- The right of the press to fully understand and communicate public agency decision-making.
An explicit and comprehensive public meeting and information policy, especially if reviewed periodically, can be an important element in maintaining or improving public relations. Such a policy exceeds the absolute requirements of the law — but if the law were enough, this guide would be unnecessary. A narrow legalistic approach will not avoid or resolve potential controversies. An agency should consider going beyond the law, and look at its unique circumstances and determine if there is a better way to prevent potential problems and promote public trust. At the very least, local agencies need to think about how their agendas are structured in order to make Brown Act compliance easier. They need to plan carefully to make sure public participation fits smoothly into the process.

**Achieving balance**

The Brown Act should be neither an excuse for hiding the ball nor a mechanism for hindering efficient and orderly meetings. The Brown Act represents a balance among the interests of constituencies whose interests do not always coincide. It calls for openness in local government, yet should allow government to function responsively and productively.

There must be both adequate notice of what discussion and action is to occur during a meeting as well as a normal degree of spontaneity in the dialogue between elected officials and their constituents.

The ability of an elected official to confer with constituents or colleagues must be balanced against the important public policy prohibiting decision-making outside of public meetings.

In the end, implementation of the Brown Act must ensure full participation of the public and preserve the integrity of the decision-making process, yet not stifle government officials and impede the effective and natural operation of government.

**Historical note**

In late 1951, *San Francisco Chronicle* reporter Mike Harris spent six weeks looking into the way local agencies conducted meetings. State law had long required that business be done in public, but Harris discovered secret meetings or caucuses were common. He wrote a 10-part series on “Your Secret Government” that ran in May and June 1952.

Out of the series came a decision to push for a new state open meeting law. Harris and Richard (Bud) Carpenter, legal counsel for the League of California Cities, drafted such a bill and Assembly Member Ralph M. Brown agreed to carry it. The Legislature passed the bill and Governor Earl Warren signed it into law in 1953.

The Ralph M. Brown Act, known as the Brown Act, has evolved under a series of amendments and court decisions, and has been the model for other open meeting laws — such as the Bagley-Keene Act, enacted in 1967 to cover state agencies.

Assembly Member Brown is best known for the open meeting law that carries his name. He was elected to the Assembly in 1942 and served 19 years, including the last three years as Speaker. He then became an appellate court justice.

**PRACTICE TIP:** The Brown Act should be viewed as a tool to facilitate the business of local government agencies. Local policies that go beyond the minimum requirements of law may help instill public confidence and avoid problems.
ENDNOTES:

1 California Government Code section 54950
2 California Constitution, Art. 1, section 3(b)(1)
3 California Government Code section 54953(a)
4 This principle of broad construction when it furthers public access and narrow construction if a provision limits public access is also stated in the amendment to the State’s Constitution adopted by Proposition 59 in 2004. California Constitution, Art. 1, section 3(b)(2).
5 California Government Code section 54952.2(b)(2) and (c)(1); Wolfe v. City of Fremont (2006) 144 Cal.App.4th 533
6 California Government Code section 54953.7

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.
Chapter 2

LEGISLATIVE BODIES

What is a “legislative body” of a local agency? ................................................................. 12

What is not a “legislative body” for purposes of the Brown Act? ................................. 14
The Brown Act applies to the legislative bodies of local agencies. It defines “legislative body” broadly to include just about every type of decision-making body of a local agency.  

What is a “legislative body” of a local agency?  
A “legislative body” includes:  

- The **governing body** of a local agency and certain of its subsidiary bodies; “or any other local body created by state or federal statute.” This includes city councils, boards of supervisors, school boards and boards of trustees of special districts. A “local agency” is any city, county, city and county, school district, municipal corporation, successor agency to a redevelopment agency, district, political subdivision or other local public agency. A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state. The California Attorney General has opined that air pollution control districts and regional open space districts are also covered. Entities created pursuant to joint powers agreements are also local agencies within the meaning of the Brown Act.  

- Newly-elected members of a legislative body who have not yet assumed office must conform to the requirements of the Brown Act as if already in office. Thus, meetings between incumbents and newly-elected members of a legislative body, such as a meeting between two outgoing members and a member-elect of a five-member body, could violate the Brown Act.  

Q. On the morning following the election to a five-member legislative body of a local agency, two successful candidates, neither an incumbent, meet with an incumbent member of the legislative body for a celebratory breakfast. Does this violate the Brown Act?  
A. It might, and absolutely would if the conversation turns to agency business. Even though the candidates-elect have not officially been sworn in, the Brown Act applies. If purely a social event, there is no violation but it would be preferable if others were invited to attend to avoid the appearance of impropriety.  

- Appointed bodies — whether permanent or temporary, decision-making or advisory — including planning commissions, civil service commissions and other subsidiary committees, boards, and bodies. Volunteer groups, executive search committees, task forces, and blue ribbon committees created by formal action of the governing body are legislative bodies. When the members of two or more legislative bodies are appointed to serve on an entirely separate advisory group, the resulting body may be subject to the
Brown Act. In one reported case, a city council created a committee of two members of the city council and two members of the city planning commission to review qualifications of prospective planning commissioners and make recommendations to the council. The court held that their joint mission made them a legislative body subject to the Brown Act.

Had the two committees remained separate; and met only to exchange information and report back to their respective boards, they would have been exempt from the Brown Act.8

- **Standing committees** of a legislative body, irrespective of their composition, which have either: (1) a continuing subject matter jurisdiction; or (2) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.9 Even if it comprises less than a quorum of the governing body, a standing committee is subject to the Brown Act. For example, if a governing body creates long-term committees on budget and finance or on public safety, those are standing committees subject to the Brown Act. Further, according to the California Attorney General, function over form controls. For example, a statement by the legislative body that the advisory committee “shall not exercise continuing subject matter jurisdiction” or the fact that the committee does not have a fixed meeting schedule is not determinative.10 “Formal action” by a legislative body includes authorization given to the agency’s executive officer to appoint an advisory committee pursuant to agency-adopted policy.11

- The governing body of any **private organization** either: (1) created by the legislative body in order to exercise authority that may lawfully be delegated by such body to a private corporation, limited liability company or other entity; or (2) that receives agency funding and whose governing board includes a member of the legislative body of the local agency appointed by the legislative body as a full voting member of the private entity’s governing board.12 These include some nonprofit corporations created by local agencies.13 If a local agency contracts with a private firm for a service (for example, payroll, janitorial, or food services), the private firm is not covered by the Brown Act.14 When a member of a legislative body sits on a board of a private organization as a private person and is not appointed by the legislative body, the board will not be subject to the Brown Act. Similarly, when the legislative body appoints someone other than one of its own members to such boards, the Brown Act does not apply. Nor does it apply when a private organization merely receives agency funding.15

**Q:** The local chamber of commerce is funded in part by the city. The mayor sits on the chamber’s board of directors. Is the chamber board a legislative body subject to the Brown Act?

**A:** Maybe. If the chamber’s governing documents require the mayor to be on the board and the city council appoints the mayor to that position, the board is a legislative body. If, however, the chamber board independently appoints the mayor to its board, or the mayor attends chamber board meetings in a purely advisory capacity, it is not.

**Q:** If a community college district board creates an auxiliary organization to operate a campus bookstore or cafeteria, is the board of the organization a legislative body?

**A:** Yes. But, if the district instead contracts with a private firm to operate the bookstore or cafeteria, the Brown Act would not apply to the private firm.

- **Certain types of hospital operators.** A lessee of a hospital (or portion of a hospital)
first leased under Health and Safety Code subsection 32121(p) after January 1, 1994, which exercises “material authority” delegated to it by a local agency, whether or not such lessee is organized and operated by the agency or by a delegated authority.16

What is not a “legislative body” for purposes of the Brown Act?

- A temporary advisory committee composed solely of less than a quorum of the legislative body that serves a limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed is not subject to the Brown Act.17 Temporary committees are sometimes called ad hoc committees, a term not used in the Brown Act. Examples include an advisory committee composed of less than a quorum created to interview candidates for a vacant position or to meet with representatives of other entities to exchange information on a matter of concern to the agency, such as traffic congestion.18

- Groups advisory to a single decision-maker or appointed by staff are not covered. The Brown Act applies only to committees created by formal action of the legislative body and not to committees created by others. A committee advising a superintendent of schools would not be covered by the Brown Act. However, the same committee, if created by formal action of the school board, would be covered.19

Q. A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise. Does the Brown Act apply to this committee?

A. No, because the committee has not been established by formal action of the legislative body.

Q. During a meeting of the city council, the council directs the city manager to form an advisory committee of residents to develop recommendations for a new ordinance. The city manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the city manager. Does the Brown Act apply to this committee?

A. Possibly, because the direction from the city council might be regarded as a formal action of the body notwithstanding that the city manager controls the committee.

- Individual decision makers who are not elected or appointed members of a legislative body are not covered by the Brown Act. For example, a disciplinary hearing presided over by a department head or a meeting of agency department heads are not subject to the Brown Act since such assemblies are not those of a legislative body.20

- Public employees, each acting individually and not engaging in collective deliberation on a specific issue, such as the drafting and review of an agreement, do not constitute a legislative body under the Brown Act, even if the drafting and review process was established by a legislative body.21

- County central committees of political parties are also not Brown Act bodies.22

ENDNOTES:

1 Taxpayers for Livable Communities v. City of Malibu (2005) 126 Cal.App.4th 1123, 1127
California Government Code section 54952(a) and (b)

California Government Code section 54951; Health and Safety Code section 34173(g) (successor agencies to former redevelopment agencies subject to the Brown Act). But see Education Code section 35147, which exempts certain school councils and school site advisory committees from the Brown Act and imposes upon them a separate set of rules.

Torres v. Board of Commissioners of Housing Authority of Tulare County (1979) 89 Cal.App.3d 545, 549-550


California Government Code section 54952.1


California Government Code section 54952(b)


California Government Code section 54952(c)(1). Regarding private organizations that receive local agency funding, the same rule applies to a full voting member appointed prior to February 9, 1996 who, after that date, is made a non-voting board member by the legislative body. California Government Code section 54952(c)(2)


California Government Code section 54952(d)

California Government Code section 54952(b); see also Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board of Directors (1993) 6 Cal.4th 821, 832.


Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.
Chapter 3

MEETINGS

Brown Act meetings ......................................................................................................... 18
Six exceptions to the meeting definition........................................................................ 18
Collective briefings ......................................................................................................... 21
Retreats or workshops of legislative bodies ................................................................. 21
Serial meetings ............................................................................................................. 21
Informal gatherings ....................................................................................................... 24
Technological conferencing ......................................................................................... 24
Location of meetings ................................................................................................. 25
The Brown Act only applies to meetings of local legislative bodies. The Brown Act defines a meeting as: “… and any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take any action on any item that is within the subject matter jurisdiction of the legislative body.” The term “meeting” is not limited to gatherings at which action is taken but includes deliberative gatherings as well. A hearing before an individual hearing officer is not a meeting under the Brown Act because it is not a hearing before a legislative body.

**Brown Act meetings**

Brown Act meetings include a legislative body’s regular meetings, special meetings, emergency meetings, and adjourned meetings.

- **“Regular meetings”** are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.
- **“Special meetings”** are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the Brown Act’s notice requirements for special meetings and are subject to 24-hour posting requirements.
- **“Emergency meetings”** are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.
- **“Adjourned meetings”** are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.

**Six exceptions to the meeting definition**

The Brown Act creates six exceptions to the meeting definition:

**Individual Contacts**

The first exception involves individual contacts between a member of the legislative body and any other person. The Brown Act does not limit a legislative body member acting on his or her own. This exception recognizes the right to confer with constituents, advocates, consultants, news reporters, local agency staff, or a colleague.

Individual contacts, however, cannot be used to do in stages what would be prohibited in one step. For example, a series of individual contacts that leads to discussion, deliberation, or action among a majority of the members of a legislative body is prohibited. Such serial meetings are discussed below.
Conferences
The second exception allows a legislative body majority to attend a conference or similar gathering open to the public that addresses issues of general interest to the public or to public agencies of the type represented by the legislative body.

Among other things, this exception permits legislative body members to attend annual association conferences of city, county, school, community college, and other local agency officials, so long as those meetings are open to the public. However, a majority of members cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency’s subject matter jurisdiction.

Community Meetings
The third exception allows a legislative body majority to attend an open and publicized meeting held by another organization to address a topic of local community concern. A majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the legislative body’s subject matter jurisdiction. Under this exception, a legislative body majority may attend a local service club meeting or a local candidates’ night if the meetings are open to the public.

“I see we have four distinguished members of the city council at our meeting tonight,” said the chair of the Environmental Action Coalition. “I wonder if they have anything to say about the controversy over enacting a slow growth ordinance?”

The Brown Act permits a majority of a legislative body to attend and speak at an open and publicized meeting conducted by another organization. The Brown Act may nevertheless be violated if a majority discusses, deliberates, or takes action on an item during the meeting of the other organization. There is a fine line between what is permitted and what is not; hence, members should exercise caution when participating in these types of events.

Q. The local chamber of commerce sponsors an open and public candidate debate during an election campaign. Three of the five agency members are up for re-election and all three participate. All of the candidates are asked their views of a controversial project scheduled for a meeting to occur just after the election. May the three incumbents answer the question?

A. Yes, because the Brown Act does not constrain the incumbents from expressing their views regarding important matters facing the local agency as part of the political process the same as any other candidates.
Other Legislative Bodies

The fourth exception allows a majority of a legislative body to attend an open and publicized meeting of: (1) another body of the local agency; and (2) a legislative body of another local agency.\(^\text{6}\) Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their subject matter jurisdiction. This exception allows, for example, a city council or a majority of a board of supervisors to attend a controversial meeting of the planning commission.

Nothing in the Brown Act prevents the majority of a legislative body from sitting together at such a meeting. They may choose not to, however, to preclude any possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation. Further, aside from the Brown Act, there may be other reasons, such as due process considerations, why the members should avoid giving public testimony or trying to influence the outcome of proceedings before a subordinate body.

Q. The entire legislative body intends to testify against a bill before the Senate Local Government Committee in Sacramento. Must this activity be noticed as a meeting of the body?
A. No, because the members are attending and participating in an open meeting of another governmental body which the public may attend.

Q. The members then proceed upstairs to the office of their local Assembly member to discuss issues of local interest. Must this session be noticed as a meeting and be open to the public?
A. Yes, because the entire body may not meet behind closed doors except for proper closed sessions. The same answer applies to a private lunch or dinner with the Assembly member.

Standing Committees

The fifth exception authorizes the attendance of a majority at an open and noticed meeting of a standing committee of the legislative body, provided that the legislative body members who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting).\(^\text{9}\)

Q. The legislative body establishes a standing committee of two of its five members, which meets monthly. A third member of the legislative body wants to attend these meetings and participate. May she?
A. She may attend, but only as an observer; she may not participate.
Social or Ceremonial Events

The final exception permits a majority of a legislative body to attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the legislative body.

Nothing in the Brown Act prevents a majority of members from attending the same football game, party, wedding, funeral, reception, or farewell. The test is not whether a majority of a legislative body attends the function, but whether business of a specific nature within the subject matter jurisdiction of the body is discussed. So long as no such business is discussed, there is no violation of the Brown Act.

Grand Jury Testimony

In addition, members of a legislative body, either individually or collectively, may give testimony in private before a grand jury. This is the equivalent of a seventh exception to the Brown Act’s definition of a “meeting.”

Collective briefings

None of these exceptions permits a majority of a legislative body to meet together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements.

Retreats or workshops of legislative bodies

Gatherings by a majority of legislative body members at the legislative body’s retreats, study sessions, or workshops are covered under the Brown Act. This is the case whether the retreat, study session, or workshop focuses on long-range agency planning, discussion of critical local issues, or team building and group dynamics.

Q. The legislative body wants to hold a team-building session to improve relations among its members. May such a session be conducted behind closed doors?

A. No, this is not a proper subject for a closed session, and there is no other basis to exclude the public. Council relations are a matter of public business.

Serial meetings

One of the most frequently asked questions about the Brown Act involves serial meetings. At any one time, such meetings involve only a portion of a legislative body, but eventually involve a majority. The Brown Act provides that “[a] majority of the members of a legislative body shall not, outside a meeting … use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.” The problem with serial meetings is the process, which deprives the public of an opportunity for meaningful observation of and participation in legislative body decision-making.
The serial meeting may occur by either a “daisy chain” or a “hub and spoke” sequence. In the daisy chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, until a quorum has discussed, deliberated, or taken action on an item within the legislative body’s subject matter jurisdiction. The hub and spoke process involves at least two scenarios. In the first scenario, Member A (the hub) sequentially contacts Members B, C, and D and so on (the spokes), until a quorum has been contacted. In the second scenario, a staff member (the hub), functioning as an intermediary for the legislative body or one of its members, communicates with a majority of members (the spokes) one-by-one for discussion, deliberation, or a decision on a proposed action. Another example of a serial meeting is when a chief executive officer (the hub) briefs a majority of members (the spokes) prior to a formal meeting and, in the process, information about the members’ respective views is revealed. Each of these scenarios violates the Brown Act.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague (but not with a majority of the body, counting the member) or appropriate staff about local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting “with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.”

The Brown Act has been violated, however, if several one-on-one meetings or conferences leads to a discussion, deliberation, or action by a majority. In one case, a violation occurred when a quorum of a city council, by a letter that had been circulated among members outside of a formal meeting, directed staff to take action in an eminent domain proceeding.

A unilateral written communication to the legislative body, such as an informational or advisory memorandum, does not violate the Brown Act. Such a memo, however, may be a public record.

The phone call was from a lobbyist. “Say, I need your vote for that project in the south area. How about it?”

“Well, I don’t know,” replied Board Member Aletto. “That’s kind of a sticky proposition. You sure you need my vote?”

“Well, I’ve got Bradley and Cohen lined up and another vote leaning. With you I’d be over the top.”

Moments later, the phone rings again. “Hey, I’ve been hearing some rumbles on that south area project,” said the newspaper reporter. “I’m counting noses. How are you voting on it?”

Neither the lobbyist nor the reporter has violated the Brown Act, but they are facilitating
The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members’ positions by asking “You sure you need my vote?” The prudent course is to avoid such leading conversations and to caution lobbyists, staff, and news media against revealing such positions of others.

The mayor sat down across from the city manager. “From now on,” he declared, “I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don’t want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting.”

Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting “with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.” Members should always be vigilant when discussing local agency business with anyone to avoid conversations that could lead to a discussion, deliberation or action taken among the majority of the legislative body.

“Thanks for the information,” said Council Member Kim. “These zoning changes can be tricky, and now I think I’m better equipped to make the right decision.”

“Glad to be of assistance,” replied the planning director. “I’m sure Council Member Jones is OK with these changes. How are you leaning?”

“Well,” said Council Member Kim, “I’m leaning toward approval. I know that two of my colleagues definitely favor approval.”

The planning director should not disclose Jones’ prospective vote, and Kim should not disclose the prospective votes of two of her colleagues. Under these facts, there likely has been a serial meeting in violation of the Brown Act.

Q. The agency’s website includes a chat room where agency employees and officials participate anonymously and often discuss issues of local agency business. Members of the legislative body participate regularly. Does this scenario present a potential for violation of the Brown Act?

A. Yes, because it is a technological device that may serve to allow for a majority of members to discuss, deliberate, or take action on matters of agency business.

Q. A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting. Is this an illegal serial meeting?

A. No, the Brown Act expressly allows a majority of a body to call a special meeting, though the members should avoid discussing the merits of what is to be taken up at the meeting.
Particular care should be exercised when staff briefings of legislative body members occur by email because of the ease of using the “reply to all” button that may inadvertently result in a Brown Act violation.

**Informal gatherings**

Often members are tempted to mix business with pleasure — for example, by holding a post-meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act. A luncheon gathering in a crowded dining room violates the Brown Act if the public does not have an opportunity to attend, hear, or participate in the deliberations of members.

Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop’s Donut Shoppe for an hour of talk and fellowship. They sat at the corner window, fronting on Main and Broadway, to show they had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues — which might be difficult. This kind of situation should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive’s presence in no way lessens the potential for a violation of the Brown Act.

Q. The agency has won a major victory in the Supreme Court on an issue of importance. The presiding officer decides to hold an impromptu press conference in order to make a statement to the print and broadcast media. All the other members show up in order to make statements of their own and be seen by the media. Is this gathering illegal?

A. Technically there is no exception for this sort of gathering, but as long as members do not state their intentions as to future action to be taken and the press conference is open to the public, it seems harmless.

**Technological conferencing**

Except for certain nonsubstantive purposes, such as scheduling a special meeting, a conference call including a majority of the members of a legislative body is an unlawful meeting. But, in an effort to keep up with information age technologies, the Brown Act specifically allows a legislative body to use any type of teleconferencing to meet, receive public comment and testimony, deliberate, or conduct a closed session. While the Brown Act contains specific requirements for conducting a teleconference, the decision to use teleconferencing is entirely discretionary with the body. No person has a right under the Brown Act to have a meeting by teleconference.

“Teleconference” is defined as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either
In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the Brown Act otherwise applicable. The Brown Act contains the following teleconferencing requirements:

- Teleconferencing may be used for all purposes during any meeting;
- At least a quorum of the legislative body must participate from locations within the local agency’s jurisdiction;
- Additional teleconference locations may be made available for the public;
- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable;
- Agendas must be posted at each teleconference location, even if a hotel room or a residence;
- Each teleconference location, including a hotel room or residence, must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate;
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location;
- All votes must be by roll call.

Q. A member on vacation wants to participate in a meeting of the legislative body and vote by cellular phone from her car while driving from Washington, D.C. to New York. May she?

A. She may not participate or vote because she is not in a noticed and posted teleconference location.

The use of teleconferencing to conduct a legislative body meeting presents a variety of issues beyond the scope of this guide to discuss in detail. Therefore, before teleconferencing a meeting, legal counsel for the local agency should be consulted.

Location of meetings

The Brown Act generally requires all regular and special meetings of a legislative body, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction.

An open and publicized meeting of a legislative body may be held outside of agency boundaries if the purpose of the meeting is one of the following:

- Comply with state or federal law or a court order, or attend a judicial conference or administrative proceeding in which the local agency is a party;
- Inspect real or personal property that cannot be conveniently brought into the local agency’s territory, provided the meeting is limited to items relating to that real or personal property;

Q. The agency is considering approving a major retail mall. The developer has built other similar malls, and invites the entire legislative body to visit a mall outside the jurisdiction. May the entire body go?

A. Yes, the Brown Act permits meetings outside the boundaries of the agency for specified reasons and inspection of property is one such reason. The field trip must be treated as a meeting and the public must be allowed to attend.
- Participate in multiagency meetings or discussions; however, such meetings must be held within the boundaries of one of the participating agencies, and all of those agencies must give proper notice;
- Meet in the closest meeting facility if the local agency has no meeting facility within its boundaries, or meet at its principal office if that office is located outside the territory over which the agency has jurisdiction;
- Meet with elected or appointed federal or California officials when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction;
- Meet in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility; or
- Visit the office of its legal counsel for a closed session on pending litigation, when to do so would reduce legal fees or costs.25

In addition, the governing board of a school or community college district may hold meetings outside of its boundaries to attend a conference on nonadversarial collective bargaining techniques, interview candidates for school district superintendent, or interview a potential employee from another district.26 A school board may also interview members of the public residing in another district if the board is considering employing that district’s superintendent.

Similarly, meetings of a joint powers authority can occur within the territory of at least one of its member agencies, and a joint powers authority with members throughout the state may meet anywhere in the state.27

Finally, if a fire, flood, earthquake, or other emergency makes the usual meeting place unsafe, the presiding officer can designate another meeting place for the duration of the emergency. News media that have requested notice of meetings must be notified of the designation by the most rapid means of communication available.28
Endnotes:
1 California Government Code section 54952.2(a)
3 California Government Code section 54954(a)
4 California Government Code section 54956
5 California Government Code section 54956.5
6 California Government Code section 54955
7 California Government Code section 54952.2(c)
8 California Government Code section 54952.2(c)(4)
9 California Government Code section 54952.2(c)(6)
10 California Government Code section 54953.1
12 California Government Code section 54952.2(b)(1)
13 Stockton Newspaper Inc. v. Redevelopment Agency (1985) 171 Cal.App.3d 95
14 California Government Code section 54952.2(b)(2)
16 Roberts v. City of Palmdale (1993) 5 Cal.4th 363
17 California Government Code section 54957.5(a)
18 California Government Code section 54952.2(b)(2)
20 California Government Code section 54953(b)(1)
21 California Government Code section 54953(b)(4)
22 California Government Code section 54953
23 California Government Code section 54954(b)
24 California Government Code section 54954(b)(1)-(7)
26 California Government Code section 54954(c)
27 California Government Code section 54954(d)
28 California Government Code section 54954(e)

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.
Chapter 4

AGENDAS, NOTICES, AND PUBLIC PARTICIPATION

Agendas for regular meetings ................................................................. 30

Mailed agenda upon written request ...................................................... 31

Notice requirements for special meetings .............................................. 32

Notices and agendas for adjourned and continued meetings and hearings .... 32

Notice requirements for emergency meetings ....................................... 32

Notice of compensation for simultaneous or serial meetings .................. 33

Educational agency meetings ............................................................ 33

Notice requirements for tax or assessment meetings and hearings ........... 33

Non-agenda items .............................................................................. 34

Responding to the public ............................................................... 34

The right to attend and observe meetings .......................................... 35

Records and recordings .................................................................. 36

The public’s place on the agenda ..................................................... 37
Effective notice is essential for an open and public meeting. Whether a meeting is open or how the public may participate in that meeting is academic if nobody knows about the meeting.

Agendas for regular meetings
Every regular meeting of a legislative body of a local agency — including advisory committees, commissions, or boards, as well as standing committees of legislative bodies — must be preceded by a posted agenda that advises the public of the meeting and the matters to be transacted or discussed.

The agenda must be posted at least 72 hours before the regular meeting in a location “freely accessible to members of the public.” The courts have not definitively interpreted the “freely accessible” requirement. The California Attorney General has interpreted this provision to require posting in a location accessible to the public 24 hours a day during the 72-hour period, but any of the 72 hours may fall on a weekend. This provision may be satisfied by posting on a touch screen electronic kiosk accessible without charge to the public 24 hours a day during the 72-hour period. While posting an agenda on an agency’s Internet website will not, by itself, satisfy the “freely accessible” requirement since there is no universal access to the internet, an agency has a supplemental obligation to post the agenda on its website if: (1) the local agency has a website; and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body, or (b) has members that are compensated, with one or more members that are also members of a governing body.

Q. May the meeting of a governing body go forward if its agenda was either inadvertently not posted on the city’s website or if the website was not operational during part or all of the 72-hour period preceding the meeting?

A. At a minimum, the Brown Act calls for “substantial compliance” with all agenda posting requirements, including posting to the agency website. Should website technical difficulties arise, seek a legal opinion from your agency attorney. The California Attorney General has opined that technical difficulties which cause the website agenda to become inaccessible for a portion of the 72 hours preceding a meeting do not automatically or inevitably lead to a Brown Act violation, provided the agency can demonstrate substantial compliance. This inquiry requires a fact-specific examination of whether the agency or its legislative body made “reasonably effective efforts to notify interested persons of a public meeting” through online posting and other available means. The Attorney General’s opinion suggests that this examination would include an evaluation of how long a technical problem persisted, the efforts made to correct the problem or otherwise ensure that the public was informed, and the actual effect the problem had on public participation.
The agenda must state the meeting time and place and must contain “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.” Special care should be taken to describe on the agenda each distinct action to be taken by the legislative body, and avoid overbroad descriptions of a “project” if the “project” is actually a set of distinct actions that must each be separately listed on the agenda.

Q. The agenda for a regular meeting contains the following items of business:

- Consideration of a report regarding traffic on Eighth Street; and
- Consideration of contract with ABC Consulting.

Are these descriptions adequate?

A. If the first is, it is barely adequate. A better description would provide the reader with some idea of what the report is about and what is being recommended. The second is not adequate. A better description might read “consideration of a contract with ABC Consulting in the amount of $50,000 for traffic engineering services regarding traffic on Eighth Street.”

Q. The agenda includes an item entitled City Manager’s Report, during which time the city manager provides a brief report on notable topics of interest, none of which are listed on the agenda.

Is this permissible?

A. Yes, so long as it does not result in extended discussion or action by the body.

A brief general description may not be sufficient for closed session agenda items. The Brown Act provides safe harbor language for the various types of permissible closed sessions. Substantial compliance with the safe harbor language is recommended to protect legislative bodies and elected officials from legal challenges.

**Mailed agenda upon written request**

The legislative body, or its designee, must mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. These copies shall be mailed at the time the agenda is posted. If requested, these materials must be made available in appropriate alternative formats to persons with disabilities.

A request for notice is valid for one calendar year and renewal requests must be filed following January 1 of each year. The legislative body may establish a fee to recover the cost of providing the service. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.
Notice requirements for special meetings

There is no express agenda requirement for special meetings, but the notice of the special meeting effectively serves as the agenda and limits the business that may be transacted or discussed. Written notice must be sent to each member of the legislative body (unless waived in writing by that member) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. This notice must be delivered by personal delivery or any other means that ensures receipt, at least 24 hours before the time of the meeting.

The notice must state the time and place of the meeting, as well as all business to be transacted or discussed. It is recommended that the business to be transacted or discussed be described in the same manner that an item for a regular meeting would be described on the agenda—with a brief general description. As noted above, closed session items should be described in accordance with the Brown Act’s safe harbor provisions to protect legislative bodies and elected officials from challenges of noncompliance with notice requirements.

The special meeting notice must also be posted at least 24 hours prior to the special meeting using the same methods as posting an agenda for a regular meeting: (1) at a site that is freely accessible to the public, and (2) on the agency’s website if: (1) the local agency has a website; and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body, or (b) has members that are compensated, with one or more members that are also members of a governing body.12

Notices and agendas for adjourned and continued meetings and hearings

A regular or special meeting can be adjourned and re-adjourned to a time and place specified in the order of adjournment.13 If no time is stated, the meeting is continued to the hour for regular meetings. Whoever is present (even if they are less than a quorum) may so adjourn a meeting; if no member of the legislative body is present, the clerk or secretary may adjourn the meeting. If a meeting is adjourned for less than five calendar days, no new agenda need be posted so long as a new item of business is not introduced.14 A copy of the order of adjournment must be posted within 24 hours after the adjournment, at or near the door of the place where the meeting was held.

A hearing can be continued to a subsequent meeting. The process is the same as for continuing adjourned meetings, except that if the hearing is continued to a time less than 24 hours away, a copy of the order or notice of continuance must be posted immediately following the meeting.15

Notice requirements for emergency meetings

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.16 News media that have requested written notice of special meetings must be notified by telephone at least one hour in advance of an emergency meeting, and all telephone numbers provided in that written request must be tried. If telephones are not working, the notice requirements are deemed waived. However, the news media must be notified as soon as possible of the meeting and any action taken.
News media may make a practice of having written requests on file for notification of special or emergency meetings. Absent such a request, a local agency has no legal obligation to notify news media of special or emergency meetings — although notification may be advisable in any event to avoid controversy.

**Notice of compensation for simultaneous or serial meetings**

A legislative body that has convened a meeting and whose membership constitutes a quorum of another legislative body, may convene a simultaneous or serial meeting of the other legislative body only after a clerk or member of the convened legislative body orally announces: (1) the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the meeting of the other legislative body; and (2) that the compensation or stipend is provided as a result of convening the meeting of that body.17

No oral disclosure of the amount of the compensation is required if the entire amount of such compensation is prescribed by statute and no additional compensation has been authorized by the local agency. Further, no disclosure is required with respect to reimbursements for actual and necessary expenses incurred in the performance of the member’s official duties, such as for travel, meals, and lodging.

**Educational agency meetings**

The Education Code contains some special agenda and special meeting provisions.18 However, they are generally consistent with the Brown Act. An item is probably void if not posted.19 A school district board must also adopt regulations to make sure the public can place matters affecting the district’s business on meeting agendas and to address the board on those items.20

**Notice requirements for tax or assessment meetings and hearings**

The Brown Act prescribes specific procedures for adoption by a city, county, special district, or joint powers authority of any new or increased tax or assessment imposed on businesses.21 Though written broadly, these Brown Act provisions do not apply to new or increased real property taxes or assessments as those are governed by the California Constitution, Article XIIIC or XIXID, enacted by Proposition 218. At least one public meeting must be held to allow public testimony on the tax or assessment. In addition, there must also be at least 45 days notice of a public hearing at which the legislative body proposes to enact or increase the tax or assessment. Notice of the public meeting and public hearing must be provided at the same time and in the same document. The public notice relating to general taxes must be provided by newspaper publication. The public notice relating to new or increased business assessments must be provided through a mailing to all business owners proposed to be subject to the new or increased assessment. The agency may recover the reasonable costs of the public meetings, hearings, and notice.

The Brown Act exempts certain fees, standby or availability charges, recurring assessments, and new or increased assessments that are subject to the notice and hearing requirements of the Constitution.22 As a practical matter, the Constitution’s notice requirements have preempted this section of the Brown Act.
Non-agenda items

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, there are three specific situations in which a legislative body can act on an item not on the agenda: 23

- When a majority decides there is an “emergency situation” (as defined for emergency meetings);
- When two-thirds of the members present (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action “came to the attention of the local agency subsequent to the agenda being posted.” This exception requires a degree of urgency. Further, an item cannot be considered under this provision if the legislative body or the staff knew about the need to take immediate action before the agenda was posted. A new need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline; or
- When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.

The exceptions are narrow, as indicated by this list. The first two require a specific determination by the legislative body. That determination can be challenged in court and, if unsubstantiated, can lead to invalidation of an action.

“I’d like a two-thirds vote of the board, so we can go ahead and authorize commencement of phase two of the East Area Project,” said Chair Lopez.

“It’s not on the agenda. But we learned two days ago that we finished phase one ahead of schedule — believe it or not — and I’d like to keep it that way. Do I hear a motion?”

The desire to stay ahead of schedule generally would not satisfy “a need for immediate action.” Too casual an action could invite a court challenge by a disgruntled resident. The prudent course is to place an item on the agenda for the next meeting and not risk invalidation.

“We learned this morning of an opportunity for a state grant,” said the chief engineer at the regular board meeting, “but our application has to be submitted in two days. We’d like the board to give us the go ahead tonight, even though it’s not on the agenda.”

A legitimate immediate need can be acted upon even though not on the posted agenda by following a two-step process:

- First, make two determinations: 1) that there is an immediate need to take action, and 2) that the need arose after the posting of the agenda. The matter is then placed on the agenda.
- Second, discuss and act on the added agenda item.

Responding to the public

The public can talk about anything within the jurisdiction of the legislative body, but the legislative body generally cannot act on or discuss an item not on the agenda. What happens when a member of the public raises a subject not on the agenda?
While the Brown Act does not allow discussion or action on items not on the agenda, it does allow members of the legislative body, or its staff, to “briefly respond” to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. In addition, even without a comment from the public, a legislative body member or a staff member may ask for information, request a report back, request to place a matter on the agenda for a subsequent meeting (subject to the body’s rules or procedures), ask a question for clarification, make a brief announcement, or briefly report on his or her own activities. However, caution should be used to avoid any discussion or action on such items.

Council Member Jefferson: I would like staff to respond to Resident Joe’s complaints during public comment about the repaving project on Elm Street — are there problems with this project?

City Manager Frank: The public works director has prepared a 45-minute power point presentation for you on the status of this project and will give it right now.

Council Member Brown: Take all the time you need; we need to get to the bottom of this. Our residents are unhappy.

It is clear from this dialogue that the Elm Street project was not on the council’s agenda, but was raised during the public comment period for items not on the agenda. Council Member A properly asked staff to respond; the city manager should have given at most a brief response. If a lengthy report from the public works director was warranted, the city manager should have stated that it would be placed on the agenda for the next meeting. Otherwise, both the long report and the likely discussion afterward will improperly embroil the council in a matter that is not listed on the agenda.

The right to attend and observe meetings

A number of Brown Act provisions protect the public’s right to attend, observe, and participate in meetings.

Members of the public cannot be required to register their names, provide other information, complete a questionnaire, or otherwise “fulfill any condition precedent” to attending a meeting. Any attendance list, questionnaire, or similar document posted at or near the entrance to the meeting room or circulated at a meeting must clearly state that its completion is voluntary and that all persons may attend whether or not they fill it out.

No meeting can be held in a facility that prohibits attendance based on race, religion, color, national origin, ethnic group identification, age, sex, sexual orientation, or disability, or that is inaccessible to the disabled. Nor can a meeting be held where the public must make a payment or purchase in order to be present. This does not mean, however, that the public is entitled to free entry to a conference attended by a majority of the legislative body.

While a legislative body may use teleconferencing in connection with a meeting, the public must be given notice of and access to the teleconference location. Members of the public must be able to address the legislative body from the teleconference location.
Action by secret ballot, whether preliminary or final, is flatly prohibited.\(^{29}\)

All actions taken by the legislative body in open session, and the vote of each member thereon, must be disclosed to the public at the time the action is taken.\(^{30}\)

**Q:** The agenda calls for election of the legislative body’s officers. Members of the legislative body want to cast unsigned written ballots that would be tallied by the clerk, who would announce the results. Is this voting process permissible?

**A:** No. The possibility that a public vote might cause hurt feelings among members of the legislative body or might be awkward — or even counterproductive — does not justify a secret ballot.

The legislative body may remove persons from a meeting who willfully interrupt proceedings.\(^{31}\) Ejection is justified only when audience members actually disrupt the proceedings.\(^{32}\) If order cannot be restored after ejecting disruptive persons, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting. The legislative body may establish a procedure to re-admit an individual or individuals not responsible for the disturbance.\(^{33}\)

**Records and recordings**

The public has the right to review agendas and other writings distributed by any person to a majority of the legislative body in connection with a matter subject to discussion or consideration at a meeting. Except for privileged documents, those materials are public records and must be made available upon request without delay.\(^{34}\) A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.\(^{35}\)

**Q:** In connection with an upcoming hearing on a discretionary use permit, counsel for the legislative body transmits a memorandum to all members of the body outlining the litigation risks in granting or denying the permit. Must this memorandum be included in the packet of agenda materials available to the public?

**A:** No. The memorandum is a privileged attorney-client communication.

**Q:** In connection with an agenda item calling for the legislative body to approve a contract, staff submits to all members of the body a financial analysis explaining why the terms of the contract favor the local agency. Must this memorandum be included in the packet of agenda materials available to the public?

**A:** Yes. The memorandum has been distributed to the majority of the legislative body, relates to the subject matter of a meeting, and is not a privileged communication.
A legislative body may discuss or act on some matters without considering written materials. But if writings are distributed to a majority of a legislative body in connection with an agenda item, they must also be available to the public. A non-exempt or otherwise privileged writing distributed to a majority of the legislative body less than 72 hours before the meeting must be made available for inspection at the time of distribution at a public office or location designated for that purpose; and the agendas for all meetings of the legislative body must include the address of this office or location. A writing distributed during a meeting must be made public:

- At the meeting if prepared by the local agency or a member of its legislative body; or
- After the meeting if prepared by some other person.

Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency is subject to the California Public Records Act; however, it may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording is to be provided without charge on a video or tape player made available by the local agency. The agency may impose its ordinary charge for copies that is consistent with the California Public Records Act.

In addition, the public is specifically allowed to use audio or video tape recorders or still or motion picture cameras at a meeting to record the proceedings, absent a reasonable finding by the legislative body that noise, illumination, or obstruction of view caused by recorders or cameras would persistently disrupt the proceedings.

Similarly, a legislative body cannot prohibit or restrict the public broadcast of its open and public meetings without making a reasonable finding that the noise, illumination, or obstruction of view would persistently disrupt the proceedings.

**The public’s place on the agenda**

Every agenda for a regular meeting must allow members of the public to speak on any item of interest, so long as the item is within the subject matter jurisdiction of the legislative body. Further, the public must be allowed to speak on a specific item of business before or during the legislative body’s consideration of it.

**Q.** Must the legislative body allow members of the public to show videos or make a power point presentation during the public comment part of the agenda, as long as the subject matter is relevant to the agency and is within the established time limit?

**A.** Probably, although the agency is under no obligation to provide equipment.

Moreover, the legislative body cannot prohibit public criticism of policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body itself. But the Brown Act provides no immunity for defamatory statements.
Q. May the presiding officer prohibit a member of the audience from publicly criticizing an agency employee by name during public comments?

A. No, as long as the criticism pertains to job performance.

Q. During the public comment period of a regular meeting of the legislative body, a resident urges the public to support and vote for a candidate vying for election to the body. May the presiding officer gavel the speaker out of order for engaging in political campaign speech?

A. There is no case law on this subject. Some would argue that campaign issues are outside the subject matter jurisdiction of the body within the meaning of Section 54954.3(a). Others take the view that the speech must be allowed under paragraph (c) of that section because it is relevant to the governing of the agency and an implicit criticism of the incumbents.

The legislative body may adopt reasonable regulations, including time limits, on public comments. Such regulations should be enforced fairly and without regard to speakers’ viewpoints. The legislative body has discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit could be shortened to accommodate a lengthy agenda or lengthened to allow additional time for discussion on a complicated matter.44

The public does not need to be given an opportunity to speak on an item that has already been considered by a committee made up exclusively of members of the legislative body at a public meeting, if all interested members of the public had the opportunity to speak on the item before or during its consideration, and if the item has not been substantially changed.45

Notices and agendas for special meetings must also give members of the public the opportunity to speak before or during consideration of an item on the agenda but need not allow members of the public an opportunity to speak on other matters within the jurisdiction of the legislative body.46

Endnotes:
1 California Government Code section 54954.2(a)(1)
4 California Government Code sections 54954.2(a)(1) and 54954.2(d)
5 California Government Code section 54960.1(d)(1)
9 California Government Code section 54954.2(a)(1)
10 San Joaquin Raptor Rescue v. County of Merced (2013) 216 Cal.App.4th 1167 (legislative body’s approval of CEQA action (mitigated negative declaration) without specifically listing it on the agenda violates Brown Act, even if the agenda generally describes the development project that is the subject of the CEQA analysis.)
Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.
Chapter 5

CLOSED SESSIONS

Agendas and reports......................................................................................................... 42
Litigation............................................................................................................................ 43
Real estate negotiations ................................................................................................... 45
Public employment........................................................................................................... 46
Labor negotiations ............................................................................................................ 47
Labor negotiations — school and community college districts....................................... 48
Other Education Code exceptions .................................................................................... 48
Joint Powers Authorities ................................................................................................... 48
License applicants with criminal records ......................................................................... 49
Public security................................................................................................................... 49
Multijurisdictional law enforcement agency ...................................................................... 49
Hospital peer review and trade secrets ........................................................................... 49
Other legislative bases for closed session ....................................................................... 50
Who may attend closed sessions..................................................................................... 50
The confidentiality of closed session discussions............................................................. 50
A closed session is a meeting of a legislative body conducted in private without the attendance of the public or press. A legislative body is authorized to meet in closed session only to the extent expressly authorized by the Brown Act.¹

As summarized in Chapter 1 of this Guide, it is clear that the Brown Act must be interpreted liberally in favor of open meetings, and exceptions that limit public access (including the exceptions for closed session meetings) must be narrowly construed.² The most common purposes of the closed session provisions in the Brown Act are to avoid revealing confidential information (e.g., prejudicing the city’s position in litigation or compromising the privacy interests of employees). Closed sessions should be conducted keeping those narrow purposes in mind. It is not enough that a subject is sensitive, embarrassing, or controversial. Without specific authority in the Brown Act for a closed session, a matter to be considered by a legislative body must be discussed in public. As an example, a board of police commissioners cannot meet in closed session to provide general policy guidance to a police chief, even though some matters are sensitive and the commission considers their disclosure contrary to the public interest.³

In this chapter, the grounds for convening a closed session are called “exceptions” because they are exceptions to the general rule that meetings must be conducted openly. In some circumstances, none of the closed session exceptions apply to an issue or information the legislative body wishes to discuss privately. In these cases, it is not proper to convene a closed session, even to protect confidential information. For example, although the Brown Act does authorize closed sessions related to specified types of contracts (e.g., specified provisions of real property agreements, employee labor agreements, and litigation settlement agreements),⁴ the Brown Act does not authorize closed sessions for other contract negotiations.

**Agendas and reports**

Closed session items must be briefly described on the posted agenda and the description must state the specific statutory exemption.⁵ An item that appears on the open meeting portion of the agenda may not be taken into closed session until it has been properly agendized as a closed session item or unless it is properly added as a closed session item by a two-thirds vote of the body after making the appropriate urgency findings.⁶

The Brown Act supplies a series of fill in the blank sample agenda descriptions for various types of authorized closed sessions, which provide a “safe harbor” from legal attacks. These sample
agenda descriptions cover license and permit determinations, real property negotiations, existing or anticipated litigation, liability claims, threats to security, public employee appointments, evaluations and discipline, labor negotiations, multi-jurisdictional law enforcement cases, hospital boards of directors, medical quality assurance committees, joint powers agencies, and audits by the California State Auditor’s Office.7

If the legislative body intends to convene in closed session, it must include the section of the Brown Act authorizing the closed session in advance on the agenda and it must make a public announcement prior to the closed session discussion. In most cases, the announcement may simply be a reference to the agenda item.8

Following a closed session, the legislative body must provide an oral or written report on certain actions taken and the vote of every elected member present. The timing and content of the report varies according to the reason for the closed session and the action taken.9 The announcements may be made at the site of the closed session, so long as the public is allowed to be present to hear them.

If there is a standing or written request for documentation, any copies of contracts, settlement agreements, or other documents finally approved or adopted in closed session must be provided to the requestor(s) after the closed session, if final approval of such documents does not rest with any other party to the contract or settlement. If substantive amendments to a contract or settlement agreement approved by all parties requires retyping, such documents may be held until retyping is completed during normal business hours, but the substance of the changes must be summarized for any person inquiring about them.10

The Brown Act does not require minutes, including minutes of closed sessions. However, a legislative body may adopt an ordinance or resolution to authorize a confidential “minute book” be kept to record actions taken at closed sessions.11 If one is kept, it must be made available to members of the legislative body, provided that the member asking to review minutes of a particular meeting was not disqualified from attending the meeting due to a conflict of interest.12 A court may order the disclosure of minute books for the court’s review if a lawsuit makes sufficient claims of an open meeting violation.

**Litigation**

There is an attorney/client relationship, and legal counsel may use it to protect the confidentiality of privileged written and oral communications to members of the legislative body — outside of meetings. But protection of the attorney/client privilege cannot by itself be the reason for a closed session.13

The Brown Act expressly authorizes closed sessions to discuss what is considered pending litigation. The rules that apply to holding a litigation closed session involve complex, technical definitions and procedures. The essential thing to know is that a closed session can be held by the body to confer with, or receive advice from, its legal counsel when open discussion would prejudice the position of the local agency in litigation in which the agency is, or could become, a party.14 The litigation exception under the Brown Act is narrowly construed and does not permit activities beyond a legislative body’s conferring with its own legal counsel and required support staff.15 For example, it is not permissible to hold a closed session in which settlement negotiations take place between a legislative body, a representative of an adverse party, and a mediator.16
The California Attorney General has opined that if the agency’s attorney is not a participant, a litigation closed session cannot be held. In any event, local agency officials should always consult the agency’s attorney before placing this type of closed session on the agenda in order to be certain that it is being done properly.

Before holding a closed session under the pending litigation exception, the legislative body must publicly state the basis for the closed session by identifying one of the following three types of matters: existing litigation, anticipated exposure to litigation, or anticipated initiation of litigation.

**Existing litigation**

Q. May the legislative body agree to settle a lawsuit in a properly-noticed closed session, without placing the settlement agreement on an open session agenda for public approval?

A. Yes, but the settlement agreement is a public document and must be disclosed on request. Furthermore, a settlement agreement cannot commit the agency to matters that are required to have public hearings.

Existing litigation includes any adjudicatory proceedings before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. The clearest situation in which a closed session is authorized is when the local agency meets with its legal counsel to discuss a pending matter that has been filed in a court or with an administrative agency and names the local agency as a party. The legislative body may meet under these circumstances to receive updates on the case from attorneys, participate in developing strategy as the case develops, or consider alternatives for resolution of the case. Generally, an agreement to settle litigation may be approved in closed session. However, an agreement to settle litigation cannot be approved in closed session if it commits the city to take an action that is required to have a public hearing.

**Anticipated exposure to litigation against the local agency**

Closed sessions are authorized for legal counsel to inform the legislative body of a significant exposure to litigation against the local agency, but only if based on “existing facts and circumstances” as defined by the Brown Act. The legislative body may also meet under this exception to determine whether a closed session is authorized based on information provided by legal counsel or staff. In general, the “existing facts and circumstances” must be publicly disclosed unless they are privileged written communications or not yet known to a potential plaintiff.

**Anticipated initiation of litigation by the local agency**

A closed session may be held under the exception for the anticipated initiation of litigation when the legislative body seeks legal advice on whether to protect the agency’s rights and interests by initiating litigation.

Certain actions must be reported in open session at the same meeting following the closed
session. Other actions, as where final approval rests with another party or the court, may be announced when they become final and upon inquiry of any person. Each agency attorney should be aware of and make the disclosures that are required by the particular circumstances.

**Real estate negotiations**

A legislative body may meet in closed session with its negotiator to discuss the purchase, sale, exchange, or lease of real property by or for the local agency. A "lease" includes a lease renewal or renegotiation. The purpose is to grant authority to the legislative body’s negotiator on price and terms of payment. Caution should be exercised to limit discussion to price and terms of payment without straying to other related issues such as site design, architecture, or other aspects of the project for which the transaction is contemplated.

Q. May other terms of a real estate transaction, aside from price and terms of payment, be addressed in closed session?

A. No. However, there are differing opinions over the scope of the phrase “price and terms of payment” in connection with real estate closed sessions. Many agency attorneys argue that any term that directly affects the economic value of the transaction falls within the ambit of “price and terms of payment.” Others take a narrower, more literal view of the phrase.

The agency’s negotiator may be a member of the legislative body itself. Prior to the closed session, or on the agenda, the legislative body must identify its negotiators, the real property that the negotiations may concern and the names of the parties with whom its negotiator may negotiate.

After real estate negotiations are concluded, the approval and substance of the agreement must be publicly reported. If its own approval makes the agreement final, the body must report in open session at the public meeting during which the closed session is held. If final approval rests with another party, the local agency must report the approval and the substance of the agreement upon inquiry by any person, as soon as the agency is informed of it.

“Our population is exploding, and we have to think about new school sites,” said Board Member Jefferson.

“Not only that,” interjected Board Member Tanaka, “we need to get rid of a couple of our older facilities.”

“Well, obviously the place to do that is in a closed session,” said Board Member O’Reilly. “Otherwise we’re going to set off land speculation. And if we even mention closing a school, parents are going to be in an uproar.”

A closed session to discuss potential sites is not authorized by the Brown Act. The exception is limited to meeting with its negotiator over specific sites — which must be identified at an open and public meeting.
Public employment

The Brown Act authorizes a closed session “to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee.” 27 The purpose of this exception — commonly referred to as the “personnel exception” — is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by the legislative body; thus, it is restricted to discussing individuals, not general personnel policies. 28 The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception. 29 That authority may be delegated to a subsidiary appointed body. 30

An employee must be given at least 24 hours notice of any closed session convened to hear specific complaints or charges against him or her. This occurs when the legislative body is reviewing evidence, which could include live testimony, and adjudicating conflicting testimony offered as evidence. A legislative body may examine (or exclude) witnesses, 31 and the California Attorney General has opined that, when an affected employee and advocate have an official or essential role to play, they may be permitted to participate in the closed session. 32 The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session. 33 If the employee is not given the 24-hour prior notice, any disciplinary action is null and void. 34

However, an employee is not entitled to notice and a hearing where the purpose of the closed session is to consider a performance evaluation. The Attorney General and the courts have determined that personnel performance evaluations do not constitute complaints and charges, which are more akin to accusations made against a person. 35

Q. Must 24 hours notice be given to an employee whose negative performance evaluation is to be considered by the legislative body in closed session?

A. No, the notice is reserved for situations where the body is to hear complaints and charges from witnesses.

Correct labeling of the closed session on the agenda is critical. A closed session agenda that identified discussion of an employment contract was not sufficient to allow dismissal of an employee. 36 An incorrect agenda description can result in invalidation of an action and much embarrassment.

For purposes of the personnel exception, “employee” specifically includes an officer or an independent contractor who functions as an officer or an employee. Examples of the former include a city manager, district general manager or superintendent. Examples of the latter include a legal counsel or engineer hired on contract to act as local agency attorney or chief engineer.

Elected officials, appointees to the governing body or subsidiary bodies, and independent contractors other than those discussed above are not employees for purposes of the personnel exception. 37 Action on individuals who are not “employees” must also be public — including discussing and voting on appointees to committees, or debating the merits of independent contractors, or considering a complaint against a member of the legislative body itself.
The personnel exception specifically prohibits discussion or action on proposed compensation in closed session, except for a disciplinary reduction in pay. Among other things, that means there can be no personnel closed sessions on a salary change (other than a disciplinary reduction) between any unrepresented individual and the legislative body. However, a legislative body may address the compensation of an unrepresented individual, such as a city manager, in a closed session as part of a labor negotiation (discussed later in this chapter), yet another example of the importance of using correct agenda descriptions.

Reclassification of a job must be public, but an employee’s ability to fill that job may be considered in closed session.

Any closed session action to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee must be reported at the public meeting during which the closed session is held. That report must identify the title of the position, but not the names of all persons considered for an employment position. However, a report on a dismissal or non-renewal of an employment contract must be deferred until administrative remedies, if any, are exhausted.

“I have some important news to announce,” said Mayor Garcia. “We’ve decided to terminate the contract of the city manager, effective immediately. The council has met in closed session and we’ve negotiated six months severance pay.”

“Unfortunately, that has some serious budget consequences, so we’ve had to delay phase two of the East Area Project.”

This may be an improper use of the personnel closed session if the council agenda described the item as the city manager’s evaluation. In addition, other than labor negotiations, any action on individual compensation must be taken in open session. Caution should be exercised to not discuss in closed session issues, such as budget impacts in this hypothetical, beyond the scope of the posted closed session notice.

**Labor negotiations**

The Brown Act allows closed sessions for some aspects of labor negotiations. Different provisions (discussed below) apply to school and community college districts.

A legislative body may meet in closed session to instruct its bargaining representatives, which may be one or more of its members, on employee salaries and fringe benefits for both represented (“union”) and non-represented employees. For represented employees, it may also consider working conditions that by law require negotiation. For the purpose of labor negotiation closed sessions, an “employee” includes an officer or an independent contractor who functions as an officer or an employee, but independent contractors who do not serve in the capacity of an officer or employee are not covered by this closed session exception.

These closed sessions may take place before or during negotiations with employee representatives. Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.
During its discussions with representatives on salaries and fringe benefits, the legislative body may also discuss available funds and funding priorities, but only to instruct its representative. The body may also meet in closed session with a conciliator who has intervened in negotiations.\(^42\)

The approval of an agreement concluding labor negotiations with represented employees must be reported after the agreement is final and has been accepted or ratified by the other party. The report must identify the item approved and the other party or parties to the negotiation.\(^43\) The labor closed sessions specifically cannot include final action on proposed compensation of one or more unrepresented employees.

**Labor negotiations — school and community college districts**

Employee relations for school districts and community college districts are governed by the Rodda Act, where different meeting and special notice provisions apply. The entire board, for example, may negotiate in closed sessions.

Four types of meetings are exempted from compliance with the Rodda Act:

1. A negotiating session with a recognized or certified employee organization;
2. A meeting of a mediator with either side;
3. A hearing or meeting held by a fact finder or arbitrator; and
4. A session between the board and its bargaining agent, or the board alone, to discuss its position regarding employee working conditions and instruct its agent.\(^44\)

Public participation under the Rodda Act also takes another form.\(^45\) All initial proposals of both sides must be presented at public meetings and are public records. The public must be given reasonable time to inform itself and to express its views before the district may adopt its initial proposal. In addition, new topics of negotiations must be made public within 24 hours. Any votes on such a topic must be followed within 24 hours by public disclosure of the vote of each member.\(^46\) The final vote must be in public.

**Other Education Code exceptions**

The Education Code governs student disciplinary meetings by boards of school districts and community college districts. District boards may hold a closed session to consider the suspension or discipline of a student, if a public hearing would reveal personal, disciplinary, or academic information about the student contrary to state and federal pupil privacy law. The student’s parent or guardian may request an open meeting.\(^47\)

Community college districts may also hold closed sessions to discuss some student disciplinary matters, awarding of honorary degrees, or gifts from donors who prefer to remain anonymous.\(^48\) Kindergarten through 12th grade districts may also meet in closed session to review the contents of the statewide assessment instrument.\(^49\)

**Joint Powers Authorities**

The legislative body of a joint powers authority may adopt a policy regarding limitations on disclosure of confidential information obtained in closed session, and may meet in closed session to discuss information that is subject to the policy.\(^50\)
License applicants with criminal records

A closed session is permitted when an applicant, who has a criminal record, applies for a license or license renewal and the legislative body wishes to discuss whether the applicant is sufficiently rehabilitated to receive the license. The applicant and the applicant’s attorney are authorized to attend the closed session meeting. If the body decides to deny the license, the applicant may withdraw the application. If the applicant does not withdraw, the body must deny the license in public, immediately or at its next meeting. No information from the closed session can be revealed without consent of the applicant, unless the applicant takes action to challenge the denial.

Public security

Legislative bodies may meet in closed session to discuss matters posing a threat to the security of public buildings, essential public services, including water, sewer, gas, or electric service, or to the public’s right of access to public services or facilities over which the legislative body has jurisdiction. Closed session meetings for these purposes must be held with designated security or law enforcement officials including the Governor, Attorney General, district attorney, agency attorney, sheriff or chief of police, or their deputies or agency security consultant or security operations manager. Action taken in closed session with respect to such public security issues is not reportable action.

Multijurisdictional law enforcement agency

A joint powers agency formed to provide law enforcement services (involving drugs; gangs; sex crimes; firearms trafficking; felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft) to multiple jurisdictions may hold closed sessions to discuss case records of an on-going criminal investigation, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

The exception applies to the legislative body of the joint powers agency and to any body advisory to it. The purpose is to prevent impairment of investigations, to protect witnesses and informants, and to permit discussion of effective courses of action.

Hospital peer review and trade secrets

Two specific kinds of closed sessions are allowed for district hospitals and municipal hospitals, under other provisions of law.

1. A meeting to hear reports of hospital medical audit or quality assurance committees, or for related deliberations. However, an applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing.

2. A meeting to discuss “reports involving trade secrets” — provided no action is taken.

A “trade secret” is defined as information which is not generally known to the public or competitors and which: 1) “derives independent economic value, actual or potential” by virtue of its restricted knowledge; 2) is necessary to initiate a new hospital service or program or facility; and 3) would, if prematurely disclosed, create a substantial probability of depriving the hospital of a substantial economic benefit.

The provision prohibits use of closed sessions to discuss transitions in ownership or management, or the district’s dissolution.
CHAPTER 5: CLOSED SESSIONS

Other legislative bases for closed session

Since any closed session meeting of a legislative body must be authorized by the Legislature, it is important to carefully review the Brown Act to determine if there is a provision that authorizes a closed session for a particular subject matter. There are some less frequently encountered topics that are authorized to be discussed by a legislative body in closed session under the Brown Act, including: a response to a confidential final draft audit report from the Bureau of State Audits, consideration of the purchase or sale of particular pension fund investments by a legislative body of a local agency that invests pension funds, hearing a charge or complaint from a member enrolled in a health plan by a legislative body of a local agency that provides Medi-Cal services, discussions by a county board of supervisors that governs a health plan licensed pursuant to the Knox-Keene Health Care Services Plan Act related to trade secrets or contract negotiations concerning rates of payment, and discussions by an insurance pooling joint powers agency related to a claim filed against, or liability of, the agency or a member of the agency.

Who may attend closed sessions

Meetings of a legislative body are either fully open or fully closed; there is nothing in between. Therefore, local agency officials and employees must pay particular attention to the authorized attendees for the particular type of closed session. As summarized above, the authorized attendees may differ based on the topic of the closed session. Closed sessions may involve only the members of the legislative body and only agency counsel, management and support staff, and consultants necessary for consideration of the matter that is the subject of closed session, with very limited exceptions for adversaries or witnesses with official roles in particular types of hearings (e.g., personnel disciplinary hearings and license hearings). In any case, individuals who do not have an official role in the closed session subject matters must be excluded from closed sessions.

Q. May the lawyer for someone suing the agency attend a closed session in order to explain to the legislative body why it should accept a settlement offer?

A. No, attendance in closed sessions is reserved exclusively for the agency’s advisors.

The confidentiality of closed session discussions

The Brown Act explicitly prohibits the unauthorized disclosure of confidential information acquired in a closed session by any person present, and offers various remedies to address breaches of confidentiality. It is incumbent upon all those attending lawful closed sessions to protect the confidentiality of those discussions. One court has held that members of a legislative body cannot be compelled to divulge the content of closed session discussions through the discovery process. Only the legislative body acting as a body may agree to divulge confidential closed session information; regarding attorney/client privileged communications, the entire body is the holder of the privilege and only the entire body can decide to waive the privilege.
Before adoption of the Brown Act provision specifically prohibiting disclosure of closed session communications, agency attorneys and the Attorney General long opined that officials have a fiduciary duty to protect the confidentiality of closed session discussions. The Attorney General issued an opinion that it is “improper” for officials to disclose information received during a closed session regarding pending litigation, though the Attorney General has also concluded that a local agency is preempted from adopting an ordinance criminalizing public disclosure of closed session discussions. In any event, in 2002, the Brown Act was amended to prescribe particular remedies for breaches of confidentiality. These remedies include injunctive relief; and, if the breach is a willful disclosure of confidential information, the remedies include disciplinary action against an employee, and referral of a member of the legislative body to the grand jury.

The duty of maintaining confidentiality, of course, must give way to the responsibility to disclose improper matters or discussions that may come up in closed sessions. In recognition of this public policy, under the Brown Act, a local agency may not penalize a disclosure of information learned during a closed session if the disclosure: 1) is made in confidence to the district attorney or the grand jury due to a perceived violation of law; 2) is an expression of opinion concerning the propriety or legality of actions taken in closed session, including disclosure of the nature and extent of the illegal action; or 3) is information that is not confidential.

The interplay between these possible sanctions and an official’s first amendment rights is complex and beyond the scope of this guide. Suffice it to say that this is a matter of great sensitivity and controversy.

“I want the press to know that I voted in closed session against filing the eminent domain action,” said Council Member Chang.

“Don’t settle too soon,” reveals Council Member Watson to the property owner, over coffee. “The city’s offer coming your way is not our bottom line.”

The first comment to the press may be appropriate if it is a part of an action taken by the City Council in closed session that must be reported publicly. The second comment to the property owner is not — disclosure of confidential information acquired in closed session is expressly prohibited and harmful to the agency.

PRACTICE TIP: There is a strong interest in protecting the confidentiality of proper and lawful closed sessions.
ENDNOTES:

1  California Government Code section 54962
2  California Constitution, Art. 1, section 3
3  61 Ops.Cal. Atty.Gen. 220 (1978); but see California Government Code section 54957.8 (multijurisdictional law enforcement agencies are authorized to meet in closed session to discuss the case records of ongoing criminal investigations, and other related matters).
4  California Government Code section 54957.1
5  California Government Code section 54954.5
6  California Government Code section 54954.2
7  California Government Code section 54954.5
8  California Government Code sections 54956.9 and 54957.7
9  California Government Code section 54957.1(a)
10  California Government Code section 54957.1(b)
11  California Government Code section 54957.2
13  Roberts v. City of Palmdale (1993) 5 Cal.4th 363
14  California Government Code section 54956.9; Shapiro v. Board of Directors of Center City Development Corp. (2005) 134 Cal.App.4th 170 (agency must be a party to the litigation).
18  California Government Code section 54956.9(g)
20  Government Code section 54956.9(e)
21  California Government Code section 54957.1
22  California Government Code section 54956.8
23  Shapiro v. San Diego City Council (2002) 96 Cal.App.4th 904; see also 93 Ops.Cal. Atty.Gen. 51 (2010) (redevelopment agency may not convene a closed session to discuss rehabilitation loan for a property already subleased to a loan recipient, even if the loan incorporates some of the sublease terms and includes an operating covenant governing the property); 94 Ops.Cal. Atty.Gen. 82 (2011) (real estate closed session may address form, manner and timing of consideration and other items that cannot be disclosed without revealing price and terms).
25  California Government Code sections 54956.8 and 54954.5(b)
26  California Government Code section 54957.1(a)(1)
27  California Government Code section 54957(b)
31 California Government Code section 54957(b)(3)
34 California Government Code section 54957(b); but see Bollinger v. San Diego Civil Service Commission (1999) 71 Cal.App.4th 568 (notice not required for closed session deliberations regarding complaints or charges, when there was a public evidentiary hearing prior to closed session).
36 Moreno v. City of King (2005) 127 Cal.App.4th 17
37 California Government Code section 54957
39 California Government Code section 54957.1(a)(5)
40 California Government Code section 54957.6
41 California Government Code section 54957.6(b); see also 98 Ops.Cal.Atty.Gen. 41 (2015) (a project labor agreement between a community college district and workers hired by contractors or subcontractors is not a proper subject of closed session for labor negotiations because the workers are not “employees” of the district).
43 California Government Code section 54957.1(a)(6)
44 California Government Code section 3549.1
45 California Government Code section 3540
46 California Government Code section 3547
48 California Education Code section 72122
49 California Education Code section 60617
50 California Government Code section 54956.96
51 California Government Code section 54956.7
52 California Government Code section 54957
54 California Government Code section 54957.8
55 California Government Code section 54962
56 California Health and Safety Code section 32106
57 California Government Code section 54956.75
58 California Government Code section 54956.81
59 California Government Code section 54956.86
60 California Government Code section 54956.87
61 California Government Code section 54956.95
CHAPTER 5: CLOSED SESSIONS

64 Government Code section 54963


66 Roberts v. City of Palmdale (1993) 5 Cal.4th 363


69 California Government Code section 54963

70 California Government Code section 54963

71 California Government Code section 54957.1

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.
Chapter 6

REMEDIES

Invalidation........................................................................................................................56

Applicability to Past Actions ..........................................................................................57

Civil action to prevent future violations ...........................................................................57

Costs and attorney’s fees ...............................................................................................58

Criminal complaints ........................................................................................................58

Voluntary resolution.........................................................................................................59
Certain violations of the Brown Act are designated as misdemeanors, although by far the most commonly used enforcement provisions are those that authorize civil actions to invalidate specified actions taken in violation of the Brown Act and to stop or prevent future violations. Still, despite all the safeguards and remedies to enforce them, it is ultimately impossible for the public to monitor every aspect of public officials’ interactions. Compliance ultimately results from regular training and a good measure of self-regulation on the part of public officials. This chapter discusses the remedies available to the public when that self-regulation is ineffective.

Invalidation

Any interested person, including the district attorney, may seek to invalidate certain actions of a legislative body on the ground that they violate the Brown Act.¹ Violations of the Brown Act, however, cannot be invalidated if they involve the following types of actions:

- Those taken in substantial compliance with the law. No Brown Act violation is found when the given notice substantially complies with the Brown Act, even when the notice erroneously cites to the wrong Brown Act section, but adequately advises the public that the Board will meet with legal counsel to discuss potential litigation in closed session;²
- Those involving the sale or issuance of notes, bonds or other indebtedness, or any related contracts or agreements;
- Those creating a contractual obligation, including a contract awarded by competitive bid for other than compensation for professional services, upon which a party has in good faith relied to its detriment;
- Those connected with the collection of any tax; or
- Those in which the complaining party had actual notice at least 72 hours prior to the regular meeting or 24 hours prior to the special meeting, as the case may be, at which the action is taken.

Before filing a court action seeking invalidation, a person who believes that a violation has occurred must send a written “cure or correct” demand to the legislative body. This demand must clearly describe the challenged action and the nature of the claimed violation. This demand must be sent within 90 days of the alleged violation or 30 days if the action was taken in open session but in violation of Section 54954.2, which requires (subject to specific exceptions) that only properly agendized items are acted on by the governing body during a meeting.³ The legislative body then has up to 30 days to cure and correct its action. If it does not act, any lawsuit must be filed within the next 15 days. The purpose of this requirement is to offer the body an opportunity to consider whether a violation has occurred and to weigh its options before litigation is filed.
Although just about anyone has standing to bring an action for invalidation,\(^4\) the challenger must show prejudice as a result of the alleged violation.\(^5\) An action to invalidate fails to state a cause of action against the agency if the body deliberated but did not take an action.\(^6\)

**Applicability to Past Actions**

Any interested person, including the district attorney, may file a civil action to determine whether past actions of a legislative body occurring on or after January 1, 2013 constitute violations of the Brown Act and are subject to a mandamus, injunction, or declaratory relief action.\(^7\) Before filing an action, the interested person must, within nine months of the alleged violation of the Brown Act, submit a “cease and desist” letter to the legislative body, clearly describing the past action and the nature of the alleged violation.\(^8\) The legislative body has 30 days after receipt of the letter to provide an unconditional commitment to cease and desist from the past action.\(^9\) If the body fails to take any action within the 30-day period or takes an action other than an unconditional commitment, a lawsuit may be filed within 60 days.\(^10\)

The legislative body’s unconditional commitment must be approved at a regular or special meeting as a separate item of business and not on the consent calendar.\(^11\) The unconditional commitment must be substantially in the form set forth in the Brown Act.\(^12\) No legal action may thereafter be commenced regarding the past action.\(^13\) However, an action of the legislative body in violation of its unconditional commitment constitutes an independent violation of the Brown Act and a legal action consequently may be commenced without following the procedural requirements for challenging past actions.\(^14\)

The legislative body may rescind its prior unconditional commitment by a majority vote of its membership at a regular meeting as a separate item of business not on the consent calendar. At least 30 days written notice of the intended rescission must be given to each person to whom the unconditional commitment was made and to the district attorney. Upon rescission, any interested person may commence a legal action regarding the past actions without following the procedural requirements for challenging past actions.\(^15\)

**Civil action to prevent future violations**

The district attorney or any interested person can file a civil action asking the court to:

- Stop or prevent violations or threatened violations of the Brown Act by members of the legislative body of a local agency;
- Determine the applicability of the Brown Act to actions or threatened future action of the legislative body;
- Determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid under state or federal law; or
- Compel the legislative body to tape record its closed sessions.

---

**PRACTICE TIP:** A lawsuit to invalidate must be preceded by a demand to cure and correct the challenged action in order to give the legislative body an opportunity to consider its options. The Brown Act does not specify how to cure or correct a violation; the best method is to rescind the action being complained of and start over, or reaffirm the action if the local agency relied on the action and rescinding the action would prejudice the local agency.
It is not necessary for a challenger to prove a past pattern or practice of violations by the local agency in order to obtain injunctive relief. A court may presume when issuing an injunction that a single violation will continue in the future where the public agency refuses to admit to the alleged violation or to renounce or curtail the practice. Note, however, that a court may not compel elected officials to disclose their recollections of what transpired in a closed session.

Upon finding a violation of the Brown Act pertaining to closed sessions, a court may compel the legislative body to tape record its future closed sessions. In a subsequent lawsuit to enforce the Brown Act alleging a violation occurring in closed session, a court may upon motion of the plaintiff review the tapes if there is good cause to think the Brown Act has been violated, and make public the relevant portion of the closed session recording.

**Costs and attorney's fees**

Someone who successfully invalidates an action taken in violation of the Brown Act or who successfully enforces one of the Brown Act's civil remedies may seek court costs and reasonable attorney's fees. Courts have held that attorney’s fees must be awarded to a successful plaintiff unless special circumstances exist that would make a fee award against the public agency unjust. When evaluating how to respond to assertions that the Brown Act has been violated, elected officials and their lawyers should assume that attorney’s fees will be awarded against the agency if a violation of the Act is proven.

An attorney’s fee award may only be directed against the local agency and not the individual members of the legislative body. If the local agency prevails, it may be awarded court costs and attorney’s fees if the court finds the lawsuit was clearly frivolous and lacking in merit.

**Criminal complaints**

A violation of the Brown Act by a member of the legislative body who acts with the improper intent described below is punishable as a misdemeanor.

A criminal violation has two components. The first is that there must be an overt act — a member of a legislative body must attend a meeting at which action is taken in violation of the Brown Act. “Action taken” is not only an actual vote, but also a collective decision, commitment or promise by a majority of the legislative body to make a positive or negative decision. If the meeting involves mere deliberation without the taking of action, there can be no misdemeanor penalty.

A violation occurs for a tentative as well as final decision. In fact, criminal liability is triggered by a member’s participation in a meeting in violation of the Brown Act — not whether that member has voted with the majority or minority, or has voted at all.

The second component of a criminal violation is that action is taken with the intent of a member “to deprive the public of information to which the member knows or has reason to know the public is entitled” by the Brown Act.
As with other misdemeanors, the filing of a complaint is up to the district attorney. Although criminal prosecutions of the Brown Act are uncommon, district attorneys in some counties aggressively monitor public agencies’ adherence to the requirements of the law.

Some attorneys and district attorneys take the position that a Brown Act violation may be pursued criminally under Government Code section 1222.25 There is no case law to support this view; if anything, the existence of an express criminal remedy within the Brown Act would suggest otherwise.26

Voluntary resolution

Arguments over Brown Act issues often become emotional on all sides. Newspapers trumpet relatively minor violations, unhappy residents fume over an action, and legislative bodies clam up about information better discussed in public. Hard lines are drawn and rational discussion breaks down. The district attorney or even the grand jury occasionally becomes involved. Publicity surrounding alleged violations of the Brown Act can result in a loss of confidence by constituents in the legislative body. There are times when it may be preferable to consider re-noticing and rehearing, rather than litigating, an item of significant public interest, particularly when there is any doubt about whether the open meeting requirements were satisfied.

At bottom, agencies that regularly train their officials and pay close attention to the requirements of the Brown Act will have little reason to worry about enforcement.

ENDNOTES:
1 California Government Code section 54960.1. Invalidation is limited to actions that violate the following sections of the Brown Act: section 54953 (the basic open meeting provision); sections 54954.2 and 54954.5 (notice and agenda requirements for regular meetings and closed sessions); 54954.6 (tax hearings); 54956 (special meetings); and 54956.5 (emergency situations). Violations of sections not listed above cannot give rise to invalidation actions, but are subject to the other remedies listed in section 54960.1.
3 California Government Code section 54960.1 (b) and (c)(1)
6 Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109, 1116-17, 1118
7 Government Code Section 54960.2(a); Senate Bill No. 1003, Section 4 (2011-2012 Session)
8 Government Code Sections 54960.2(a)(1), (2)
9 Government Code Section 54960.2(b)
CHAPTER 6: REMEDIES

10 Government Code Section 54960.2(a)(4)
11 Government Code Section 54960.2(c)(2)
12 Government Code Section 54960.2(c)(1)
13 Government Code Section 54960.2(c)(3)
14 Government Code Section 54960.2(d)
15 Government Code Section 54960.2(e)


18 Los Angeles Times Communications, LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal. App.4th 1313, 1327-29 and cases cited therein

19 California Government Code section 54960.5

20 California Government Code section 54959. A misdemeanor is punishable by a fine of up to $1,000 or up to six months in county jail, or both. California Penal Code section 19. Employees of the agency who participate in violations of the Brown Act cannot be punished criminally under section 54959. However, at least one district attorney instituted criminal action against employees based on the theory that they criminally conspired with the members of the legislative body to commit a crime under section 54949.

21 California Government Code section 54959

22 California Government Code section 54952.6


24 California Government Code section 54959

25 California Government Code section 1222 provides that "[e]very wilful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor."

26 The principle of statutory construction known as *expressio unius est exclusio alterius* supports the view that section 54959 is the exclusive basis for criminal liability under the Brown Act.

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at [www.cacities.org/opengovernment](http://www.cacities.org/opengovernment). A current version of the Brown Act may be found at [www.leginfo.ca.gov](http://www.leginfo.ca.gov).
Appendix C
Table of Contents

Introduction........................................................................................................................................1
What’s a Special District?..................................................................................................................2
What a Special District is Not...........................................................................................................3
A Short History of California’s Special Districts................................................................................4
Special Districts’ Statutory Authority ...............................................................................................5
Types of Special Districts ................................................................................................................5
Funding Special Districts..................................................................................................................8
Advantages & Disadvantages ..........................................................................................................11
Frequently Asked Questions...........................................................................................................12
Current Topics & Emerging Trends .................................................................................................15
Appendix A: Types of Special Districts ..........................................................................................19
Appendix B: Special District Information Sources .........................................................................20
Appendix C: Sources for Questions & Answers .............................................................................23
Sources & Credits ...........................................................................................................................26

Copying this report. What’s So Special About Special Districts? is not copyrighted. The contents of this report are in the public domain. Although anyone may reproduce this report, but Senate Local Government Committee would appreciate receiving credit. This report also appears on the Committee’s webpage: www.sen.ca.gov/locgov.
Introduction

Most of us don’t know much about local governments. We know less about special districts. Special district advocates hail special districts as the best examples of small-town democracy. Their critics say that special districts make local government too complex. What’s So Special About Special Districts? untangles the basic facts about this least known segment of local government.

Most Californians don’t understand special districts. Most of us don’t know:

- How many exist (about 3,300).
- What they do (services from A to Z --- from airports to zoos).
- Who runs them (maybe your next-door neighbor).
- Or even what they spend on local services (about $38 billion a year).

Celebrated as the best example of democracy, cursed as the worst form of fragmented government, and generally misunderstood even by the experts, special districts are California’s unique contribution to local government. The question remains: What’s so special about special districts? This citizen’s guide provides the answer: focused service.

Focused because special districts only serve in specifically defined areas, unlike counties and cities that provide services throughout their boundaries. Special districts are also focused because most of them provide only a single service, allowing them to concentrate on one activity. Service because districts deliver only the public programs and public facilities that their constituents want. Counties and cities provide multiple programs, some of them mandated by the federal and state governments. Special districts provide the public services that the public wants.

Our citizen’s guide answers many of your questions about California’s most abundant form of local government. In plain language, this citizen’s guide explains what special districts are, where districts came from, their legal powers, and different ways to understand them. This guide also tells you where to get more information about the special districts that serve you.

Frequently cited by other authors, this report has become a standard introduction to special district government since the Committee first published it in 1991. But much has changed in 20 years. The Legislature has shifted billions of dollars of property tax revenues away from local agencies, including districts. The voters amended the California Constitution to make it harder to raise local revenues (Proposition 218 in 1996), harder for the Legislature to tamper with local governments’ revenues (Proposition 1A in 2004), but easier to get access to public records and meetings (Proposition 59 in 2004). The California economy has been through two major recessions. Our Fourth Edition documents special districts’ current financial status, explores what is and what is not a special district, explains what services districts provide, and describes how citizens can effect changes in the districts which serve them.

Democracy works best when people know about the governments that serve them. This guide will make you smarter about the special districts that serve you.
What's a Special District?

State law defines a special district as “any agency of the state for the local performance of governmental or proprietary functions within limited boundaries.” In plain language, a special district is a separate local government that delivers a limited number of public services to a geographically limited area.

Special districts have four distinguishing characteristics. Special districts:
- Are a form of government.
- Have governing boards.
- Provide services and facilities.
- Have defined boundaries.

Inadequate revenue bases and competing demands for existing taxes make it hard for counties and cities to provide all of the services that their constituents want. When residents or landowners want new services or higher levels of existing services, they can form a district to pay for them. Fire districts, irrigation districts, cemetery districts, and mosquito abatement districts exist today because taxpayers were willing to pay for public services they wanted. Special districts localize the costs and benefits of public services. Special districts let local residents get the services they want at prices they’re willing to pay.

So, what’s so special about special districts? Focused services. Special districts are a type of local government that delivers specific public services within defined boundaries.

Special districts deliver highly diverse services including water, electricity, mosquito abatement, and fire protection. Most special districts serve just a single purpose, such as sewage treatment. Others respond to a wide range of needs, as in the case of community service districts, which can deliver up to 32 services.

Districts’ service areas can range from a single neighborhood to vast areas. For example, the Metropolitan Water District of Southern California serves nearly 19 million people in over 5,200 square miles in six counties, while the Kingsbury Greens Community Services District (Nevada County) runs the sewage system for 45 condominiums on 7.65 acres. Most special districts’ operate within just one county, but some districts’ boundaries cross over city limits and county lines. The Contra Costa County Fire Protection District serves unincorporated territory plus nine cities. The Roubidoux Community Services District delivers services to communities in two different counties: Riverside and San Bernardino. Unlike counties and cities, special districts’ boundaries aren’t always limited to contiguous territory. For example, the Pajaro/Sunny Mesa Community Services District (Monterey County) serves several separate pockets of territory.

Special districts have most of the same basic powers as counties and cities. They can sign contracts, employ workers, and acquire real property through purchase or eminent domain. Following constitutional limits, they can also issue bonds, impose special taxes, levy benefit assessments, and charge service fees. Like other governments, special districts can sue and be sued.
Special districts have corporate powers and tax powers, but rarely the police power. Corporate power is the ability to “do things,” like building public works projects such as parks and sewers. It’s the power to run recreation programs and collect garbage. Tax power is the authority to raise money to pay for these projects and services. Police power is different; it’s the authority to regulate private behavior to accomplish a public goal. Governments that make rules and enforce them use the police power: zoning property, requiring business licenses, or setting speed limits. Special districts rarely have police powers. Instead, they usually build public facilities and provide services. When special districts do have police powers, they are usually related to some corporate power. One example is banning alcoholic beverages from a park district’s picnic area.

What a Special District is Not

Now that we understand what special districts are, let’s look at what special districts are not.

- **Special districts are not state government.**
  Special districts are local agencies which deliver specific services to specific communities. Operating under state laws, special districts are autonomous government entities that are accountable to the voters or landowners they serve. State officials, however, oversee special districts. For example, special districts must send their annual financial reports to the State Controller’s Office. Districts must also follow the state laws for special taxes, bonded debt, public hearings, public records, and elections.

- **Special districts are not county governments or cities.**
  Counties and cities are general purpose governments. Counties and cities perform a broad array of services to protect the health, safety, and welfare of all their citizens. Special districts are limited purpose governments. Special districts can provide only the services allowed by state law and supported by their residents. Sometimes county supervisors or city councils are special districts’ governing boards, but those districts are legally separate local entities.

- **Special districts are not school districts.**
  School districts exist to provide one service --- public education. Special districts can deliver a variety of public services, excluding education. School districts get most of their money from the state government. Special districts rely mostly on local revenues.

- **Special districts are not “Mello-Roos” districts or benefit assessment districts.**
  Counties, cities, school districts, and many special districts can create Mello-Roos Act community facilities districts and benefit assessment districts to finance public works and public services. Mello-Roos districts and benefit assessment districts are just financing mechanisms and do not deliver services. Special districts use these financing mechanisms to provide public services.
• **Special districts are not redevelopment agencies.**
Cities and counties set up community redevelopment agencies to eliminate blight by paying for public and private improvements and economic development efforts. Special districts do not exist to eliminate blight. Special districts provide public services and infrastructure that help communities, but they’re not in the business of direct economic development.

• **Who’s in? Who’s out?**
Most of our facts about special districts come from the annual *Special Districts Annual Reports* produced by the State Controller’s Office. The total number of special districts included in this citizen’s guide (3,294) varies from the State Controller’s report (4,776) because the Controller defines special districts differently. The State Controller’s report has a very broad reach, including 1,482 entities that we don’t think are real special districts.

Our guide omits entities that don’t share all four of the key characteristics: is a government, has a governing board, provides services, and has boundaries. For example, nonprofit corporations don’t appear in our count because they’re corporations, not governments. To be clear, we don’t count: air pollution control districts, flood control maintenance districts, health districts, highway lighting districts, maintenance districts, vehicle parking districts, road maintenance districts, permanent road divisions, joint powers agencies, and nonprofit corporations. Neither we nor the State Controller count benefit assessment districts, business improvement districts, geologic hazard abatement districts, Mello-Roos Act community facilities districts, multi-family improvement districts, or parking and business improvement districts.

**A Short History of California’s Special Districts**

Like hula hoops, martinis, and freeways, special districts became an art form in California. Special districts first arose to meet the water needs of San Joaquin Valley farmers. Frustrated by an inconsistent water supply and unstable prices, farmers in Stanislaus County organized the Turlock Irrigation District under the Wright Act of 1887. The Wright Act allowed landowners to form new public entities to deliver irrigation water, and to finance their activities with water rates and bond sales. As California’s first special district, the Turlock Irrigation District made it possible for local farmers to intensify and diversify their crops.

While the earliest irrigation districts served rural areas, the trend was towards delivering water to urban and suburban communities. In the early 1900s, water districts were primarily located in northern and central California. After 1950, they spread to Southern California to satisfy the growing suburban water demands.

In the 20th Century, special districts increased dramatically in both number and scope. The periods of prosperity and population growth that followed both World Wars increased the demand for public services of all kinds and, consequently, special districts. Special districts became a popular way to meet these needs. Unlike the complex bureaucracies that can come with cityhood, special districts were flexible and provided desired services quickly and efficiently.
The statutory authorization for \textit{mosquito abatement districts} in 1915 shows the recurring connection between the real estate industry and the desire for local services. Salt marsh mosquitoes around the San Francisco Bay and higher than average malaria cases in rural counties prompted legislators to allow local officials to form mosquito abatement districts. The 372 \textit{fire protection districts} can trace their origins to a 1923 state law. In 1931, the Legislature authorized recreation districts, the forerunners of today’s 108 \textit{recreation and park districts}. \textit{Hospital districts} arose in 1945 because of a statewide shortage of hospital beds. Although originally created to address individual services, special districts later encompassed multiple needs. The Legislature provided for multi-purpose \textit{county service areas} in 1953 and \textit{community services districts} in 1961.

\section*{Special Districts’ Statutory Authority}

Special districts operate either under a \textit{principal act} or a \textit{special act}. A \textit{principal act} is a generic statute which applies to all special districts of that type. For example, the Community Services District Law governs all 325 community services districts. There are about 50 principal act statutes which local voters can use to create and govern special districts.

Occasionally, local circumstances don’t fit the general conditions anticipated by the principal acts. In those cases, the Legislature can create a \textit{special act} district that’s tailored to the unique needs of a specific area. Districts which are regional in nature, have unusual governing board requirements, provide unique services, or need special financing, result in special act districts. Examples of districts formed under special acts include the Embarcadero Municipal Improvement District (Santa Barbara County), the Humboldt Bay Harbor, Recreation, and Conservation District, and the Shasta-Tehama County Watermaster District. There are about 125 special act districts.

All principal acts are state laws in the California state codes, whereas most special acts are not codified. However, for convenience, many of the water districts’ special acts appear in the Appendix to the California Water Code. For a list of these acts, see Appendix A in the State Controller’s \textit{Special Districts Annual Report}.

\section*{Types of Special Districts}

Special districts’ activities are as diverse as the communities they serve. The most common type of special district in California are the 895 County Service Areas, while the Golden Gate Bridge, Highway and Transportation District is an example of a category with just one member.

With about 3,300 special districts, it may seem overwhelming to try to understand the purpose and function of the districts. To simplify that task, let’s break down the districts into pairs of categories. One way of understanding districts is to look at their various contrasting features:

- Single function versus multi-function.
- Enterprise versus non-enterprise.
- Independent versus dependent.
Single Function versus Multi-Function Districts.
Most special districts perform only a single function. Single function districts deliver just one service such as water, sewage, or fire protection. The Happy Camp Cemetery District (Siskiyou County) is an example of a single function special district. Cemeteries are the only service that the 252 public cemetary districts can provide.

Multi-function districts provide two or more services. County Service Areas (CSAs) may provide any service which a county can provide. For example, CSAs provide animal control, libraries, police protection, snow removal, and weed abatement.

Some multi-function districts only offer a few of the services they are authorized to provide. For example, the Community Services District Law allows CSDs to provide up to 32 different services, but the Buzztail CSD (Butte County) offers only water service.

The powers which state law authorizes but a district does not currently provide are called its latent powers. Before a special district can activate one of its latent powers, it needs approval by the Local Agency Formation Commission (LAFCO). Significant protests may require the district to get its voters’ approval. If the new service requires new revenues from special taxes or benefit assessments, the district must also get those approvals from voters or property owners.

Enterprise versus Non-enterprise Districts.
Just over a quarter of the special districts are enterprise districts. Enterprise districts deliver services that are run like business enterprises --- they charge for their customers’ services. For example, a hospital district charges room fees paid by patients, not the district’s other residents. Water districts charge water rates to their customers. Nearly all of the water, wastewater, and hospital districts are enterprise districts.

Non-enterprise districts provide services which don’t lend themselves to fees. Fire protection services and mosquito abatement programs benefit the entire community, not just individual residents. No direct cost/benefit relationship exists in the services provided by non-enterprise districts. Consequently, non-enterprise districts generally don’t charge user fees for their services. No one wants to put a meter on a park district’s swings or charge residents to put out a house fire. Non-enterprise districts rely overwhelmingly on property tax revenues and parcel taxes to pay their operational expenses. Services commonly provided by non-enterprise districts include cemeteries, fire protection, libraries, and police protection. Although non-enterprise districts rely primarily on non-fee revenue, certain services, such as a recreation and park district’s swimming pool or soccer programs, can generate some fee revenue.

Independent versus Dependent Districts.
About two-thirds of the state’s special districts are independent districts. Independent districts have their own separate governing boards elected by the districts’ own voters. For example, local voters elect the board of directors which runs the Rancho Simi Recreation and Park District (Ventura County). Independent districts also include districts where the appointed boards of directors serve for fixed terms. Cemetery districts are independent districts because county boards...
of supervisors appoint the residents who serve on the districts’ boards of trustees to fixed four-year terms. Independent special districts include library districts, memorial districts, mosquito abatement districts, and resource conservation districts.

Dependent districts are governed by other, existing legislative bodies (either a city council or a county board of supervisors). All County Service Areas, for example, are dependent districts because their county boards of supervisors govern them. The San Bernardino County Board of Supervisors is the *ex officio* governing board for the Yucca Valley Recreation and Park District, making it a dependent district. Because the Oceanside City Council also serves as the board of directors for the Oceanside Small Craft Harbor District (San Diego County), the District is a dependent special district.

A community’s registered voters usually choose an independent district’s board of directors. But in some water districts, political power rests with the landowners. Where the districts’ services primarily benefit land and not people, the courts have upheld the use of *landowner-voter districts*.

### Who votes?

The California Constitution says that “The right to vote or hold office may not be conditioned by a property qualification.” But state laws provide for some “landowner-voter districts” where the district directors or the voters (or both) must own land within the district. How is that possible?

The United States Supreme Court tackled this question in a case called *Salyer Land Company v. Tulare Lake Basin Water Storage District*, 410 U.S. 719 (1973).

Some landowners and resident registered voters within the District claimed that it was unconstitutional to restrict voting rights to landowners. Further, they argued that it was inequitable that smaller landowners received fewer votes than larger landowners. The plaintiffs urged the creation of a new policy so that all residents in the District would be permitted only one vote regardless of land ownership.

The District argued that its irrigation services only benefited the land. Thus, any effects on non-landowner residents were indirect and did not entitle them to vote. Also, the number of votes allotted to landowners was proportional to the assessed value of the land, and therefore relative to each landowner’s benefits and burdens. The Supreme Court agreed with the defendant and upheld landowner-voting because the District “provides no service to the general public.”

Special districts’ governing boards can vary with the size and type of the district. Most districts have five-member governing boards. Other governing boards vary from three to 11 or more members. Because of its special legislation, the Metropolitan Water District of Southern California has 37 board members. Many larger districts have professional general managers, similar to city managers or county administrators, who run the daily operations. The governing boards adopt the broad policies that the general managers carry out.
These three distinctions about special districts aren’t mutually exclusive. It’s possible to have an independent, multi-function, enterprise special district, such as the Whispering Palms Community Services District (San Diego County). The District is independent because its voters elect their own board of directors; it’s multi-function because the District provides sewers, street lighting, and road maintenance; and it’s enterprise because local officials charge their customers for the sewer services. Conversely, County Service Area No. 19 (Marin County) is a dependent, single function, non-enterprise district. The CSA is dependent because the Marin County Board of Supervisors governs it; it’s single function because it delivers only one service; and it’s non-enterprise because that sole service is fire protection.

**Funding Special Districts**

To better understand how special districts pay for themselves, let’s divide their spending into two broad categories:

- Spending on operations and maintenance (programs).
- Spending on capital projects (public works projects).

**Operations and Maintenance.**

To pay for their regular operations, special districts generate revenue from three basic sources: taxes, benefit assessments, and service charges.

General taxes. When the voters amended the California Constitution by passing Proposition 13 (1978), they stopped local officials from levying separate property tax rates. Instead, county officials collect a uniform 1% property tax rate and allocate the resulting revenues to other local governments, following complicated formulas in state law. Most special districts get a share of these general property taxes. In 2007-08, county officials allocated about $3.6 billion in general property tax revenues to special districts. Proposition 218 (1996) constitutionally prohibited special districts from levying their own general taxes.

Special taxes. Nearly all special districts can levy special taxes, if they get 2/3-voter approval. Often called “parcel taxes,” these special taxes are usually a flat amount for each lot or each acre of ground. The Windsor Fire Protection District (Sonoma County) relies on two special taxes --- both approved by the District’s voters --- for most of its annual revenues. Some property owners are familiar with the parcel taxes that special districts levy under the Mello-Roos Act. Details about which special districts can levy special taxes appears in *Revenues And Responsibilities: An Inventory of Local Tax Powers* on the Committee’s webpage: http://senweb03.senate.ca.gov/committee/standing/LOCAL_GOV/REVENUESANDRESPONSIBILITIES.pdf

Benefit assessments. Many special districts can charge benefit assessments to pay for operating and maintaining public facilities and service programs that directly benefit property. Proposition 218 (1996) required assessment amounts to reflect the “proportionate special benefit” that the property receives. Benefit assessments are constitutionally distinct from taxes in several important ways. One key difference between assessments and taxes is that the affected property owners must give their approval for benefit assessments in a weighted-ballot election.

**Service Charges.** Special districts that run enterprise activities or deliver specific services can pay for their activities with service charges. Water rates generate the revenue that the Rainbow Municipal Water District (San Diego County) needs to run the community’s water systems. The Modesto Irrigation District (Stanislaus County) sends bills to its electricity customers. Hospital charges help support the Seneca Hospital District (Plumas County). In 2007-08, special districts’ enterprise revenues totaled nearly $25.2 billion.

<table>
<thead>
<tr>
<th>Special Districts’ Enterprise Revenues (2007-08)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>8,099,005,000</td>
</tr>
<tr>
<td>Transit</td>
<td>4,634,395,000</td>
</tr>
<tr>
<td>Waste Disposal</td>
<td>3,478,224,000</td>
</tr>
<tr>
<td>Electric Utility</td>
<td>4,171,583,000</td>
</tr>
<tr>
<td>Hospital</td>
<td>4,094,546,000</td>
</tr>
<tr>
<td>Airport</td>
<td>457,296,000</td>
</tr>
<tr>
<td>Harbor and Port</td>
<td>250,658,000</td>
</tr>
<tr>
<td>Total</td>
<td>25,185,707,000</td>
</tr>
</tbody>
</table>

Even some non-enterprise districts collect service charges to pay for special programs. For example, the Hayward Area Recreation and Park District (Alameda County) charges green fees to play on the District’s Skywest Golf Course.

**Capital Projects.**

Special districts create debt to borrow the money that they need for capital projects, such as expanding a wastewater treatment plant, acquiring parkland, or buying a new fire engine. Special districts’ total long-term debts of all kinds were approximately $72.4 billion in 2007-08.

Special districts pay off their *general obligation bonds* with higher property tax rates that require 2/3-voter approval. The Rand Communities Water District (Kern County) issued general obligation bonds to accumulate the capital needed for its water system. User fees pay for special districts’ *revenue bonds* which may require majority-voter approval. The Groveland Community Services District (Tuolumne County) issued four revenue bonds to improve its sewer system. *Benefit assessment bonds* need the weighted-ballot approval of the property owners who own the properties that benefit from the special districts’ public works projects. That’s the approach used by the Las Gallinas Valley Sanitary District (Marin County) for its sewer improvements. *Mello-Roos Act bonds* also require 2/3-voter approval, but their revenue streams come from parcel taxes. Other, more exotic borrowing devices include certificates of participation, promissory notes, and loans from the state and federal governments.
Loss of Funding for Special Districts.
Special districts have coped with three decades of tough financial times. In 1977-78, the year before the voters passed Proposition 13, special districts received $945 million in property tax revenues. In 1978-79, their property tax revenues dropped to $532 million, a loss of almost 50%.

In response to Proposition 13, legislators encouraged the special districts with the power to raise revenues with user fees and service charges to start the transition to fees and charges and to reduce their reliance on property tax revenues.

To help local governments weather the fiscal shock caused by Proposition 13, the state sent more state money to school districts and shifted some of the schools’ property tax revenues to counties, cities, and special districts. For special districts, these supplemental property tax revenues went into a Special District Augmentation Fund (SDAF) in each county. The county supervisors then allocated the SDAF money to the special districts in their counties. This practice lasted from 1978 to 1992.

Faced with huge budget deficits in 1992-93 and again in 1993-94, the state shifted almost $4 billion annually in property taxes from local governments (counties, cities, special districts, and re-development agencies) to an Educational Revenue Augmentation Fund (ERAF) in each county. The property tax revenue in the ERAF supports schools. The continuing ERAF shifts help the state fulfill its constitutional duty to pay for schools. Enterprise special districts had better chances of coping with the ERAF shifts because their fees generate revenues. The ERAF shifts hit the non-enterprise districts especially hard because they have few ways to make up for the lost revenues. Special legislation has granted fiscal relief to some special districts.

Proposition 1A (2004) made it much harder for the state to shift property taxes and other local revenues away from counties, cities, and special districts. These constitutional protections restore some fiscal stability to special districts.

How Much is Too Much?
A 2000 report from the Little Hoover Commission revealed that special districts reported more than $19.4 billion in reserves to the State Controller in 1996-97. Enterprise special districts held most of these reserves. This large figure raised a red flag for policy-makers and the public. Why were the districts setting aside so much money? And how did they plan to spend it?

Special district leaders argued that there were legitimate reasons for these reserves. District officials had allocated nearly all of the reserve dollars into specific funds for earmarked purposes. Special districts also used their reserve accounts to accumulate the capital needed to pay for large public works projects, rather than paying future interest on borrowed money. Further, reserves provided a safety cushion in lean fiscal years, stabilizing consumers’ rates.

Special districts, taxpayers, and legislators learned that special districts should improve how they report their fiscal activities, including the purposes for their reserves. Out of this controversy came a state law that required the State Controller to publish an annual electronic report listing
the 250 special districts with the largest total revenues. For 2007-08, the three special districts with the largest total revenues were:

- Metropolitan Water District of Southern California ($1,267,721,814).
- Los Angeles County Metropolitan Transportation Authority ($1,209,788,940).

For the complete list, see [http://lgrs.sco.ca.gov/sb282/index.asp](http://lgrs.sco.ca.gov/sb282/index.asp).

**LAFCO Cost-Sharing.**

Until 2001, county governments paid 100% of costs to operate the Local Agency Formation Commissions (LAFCOs), but legislative reforms spread those costs more broadly. When independent special districts get seats on the LAFCO, they must share the commission’s costs with cities and the county government. Half of the 58 LAFCOs have special district representation, so special districts in those 29 counties pay a third of their LAFCOs’ costs. A district’s contribution is proportionate to its revenue, with some exceptions.

**Advantages & Disadvantages**

Many people disagree over the usefulness and desirability of special districts. Before you make up your own mind, consider these arguments.

**Advantages:**

**Special districts tailor services to meet local needs.** Counties and cities must protect their residents’ health, safety, and welfare and, thus, must provide many services, regardless of citizen demand. Special districts, however, only provide the services that their communities desire.

**Special districts link costs to benefits.** General purpose local governments --- counties and cities --- levy general taxes to pay for public services. The services that taxpayers receive are not directly related to the amount of taxes they pay. In a special district, only those who benefit from the district’s services pay for them. Those who do not benefit do not pay.

**Special districts respond to their constituents.** Because most special districts are geographically smaller and have fewer residents than counties and cities, they’re more responsive to their constituents. Small groups of citizens can be quite effective in influencing special districts’ decisions.

**Disadvantages:**

**Too many special districts means inefficiency.** Many special districts provide the same services that counties and cities provide. Overlapping jurisdictions can create competition and conflict among special districts, and also between districts and general purpose governments. In addition, when communities incorporate, some Local Agency Formation Commissions (LAFCOs) fail to dissolve the special districts that exist within the new city limits, resulting in extra administrative costs and duplicated services.
Special districts hinder regional planning. Having numerous special districts can hamper planning efforts. For example, it can be difficult to organize the various water, sewer, and fire services in one region to deliver services to property owners and residents. Because about 2/3 of the districts have independent governing boards, no single agency coordinates their efforts.

Special districts decrease accountability. The multiplicity of limited purpose special districts can make it harder for residents and property owners to find out who’s responsible for services. Separate special districts may provide water, sewer, parks, library, and fire protection services to the same unincorporated community. Residents have a hard time finding out who’s in charge. Furthermore, the narrow and technical nature of a district’s activities often results in low civic visibility until a crisis arises. Special district elections typically have very low voter turnouts. Although some view low voter turnout as a sign of voter satisfaction, representative democracy relies on broad participation.

Frequently Asked Questions

Now that you have a basic understanding of special districts, you may have some specific questions you want answered. We explain the sources for our answers in Appendix C. Here are a dozen of the most frequently asked questions.

1. How can I find out if I live in a special district?
The easiest way is to call your Local Agency Formation Commission (LAFCO). Each county has a LAFCO which is responsible for forming and dissolving special districts. You’ll find a directory of LAFCOs at [www.calafco.org](http://www.calafco.org). You can also look on your county property tax bill to see if some of your tax dollars go to a special district.

2. How can I form a special district?
District formation follows five steps:

- **Application.** Registered voters in the proposed district apply to the Local Agency Formation Commission (LAFCO). The application must detail the proposed district’s boundaries and services, environmental effects, and financing methods.
- **Review and approval.** The LAFCO’s staff studies the application, schedules the public hearing, and presents a public report with recommendations. The LAFCO can approve or deny the proposal. If the LAFCO approves, it’s time to measure protests.
- **Protest hearing.** The LAFCO holds a second public hearing, this time to measure formal protests from voters and property owners. A majority protest stops the proposal, otherwise there’s an election.
- **Election.** Only the voters inside the proposed district’s boundaries vote at this election, which usually requires majority-voter approval. If the proposed new district relies on new special taxes, the measure needs 2/3-voter approval.
- **Formal filing.** If the voters approve the proposed district, the LAFCO’s staff must file the formal documents needed to start the new district.
3. Who picks my district's governing board?
About 2/3 of our special districts are independent, that is, they have independently elected or appointed boards of directors. The other districts are dependent districts because they depend on another local government to govern them; usually a city council or a county board of supervisors. In most independent districts, registered voters elect the governing boards. In a few types of special districts, the landowners vote. Most governing boards have five members who serve staggered, four-year terms.

4. How can I find out who runs a special district?
The easiest way is to call your district directly and ask who serves on its governing board. Many districts have their own web sites. Also, your county clerk must keep a formal Roster of Public Agencies which lists all special districts along with the names and addresses of the members of their governing boards. Ask your county clerk for a copy of your county’s Roster. This information may also be available on your county’s web site.

5. Can a special district tax me without my approval?
No. Proposition 13 (1978) limited property taxes to 1% of property value. Many special districts get a share of these revenues. If a special district wants more tax revenues, it needs 2/3-voter approval before it can charge special taxes (also called “parcel taxes”). A general obligation bond that raises property tax rates also requires 2/3-voter approval.

6. But what about special assessments? Aren’t they just like special taxes?
Not really. Special districts can charge benefit assessments to pay for public works like sewers, parks, and water systems, and to pay for some services. Property owners pay benefit assessments only for the projects or services that directly benefit their property. The amount of the assessment must be directly related to the benefit received. Proposition 218 (1996) required local governments, including special districts, to get weighted ballot approval from property owners before they can levy benefit assessments.

7. What can I do if I don’t like what my special district is doing?
Talk to your district’s general manager or the members of your district’s governing board at their next meeting. All local governments must make time at their board meetings to listen to public comments. If you still aren’t pleased with your district’s activities, the remedy is direct democracy in the form of initiative, referendum, and recall.

- **Initiatives** let the voters propose ordinances directly instead of waiting for their district board to act. Successful initiatives need public notice, petitions, and majority-voter approval.

- **Referenda** also give voters a direct vote in district matters. The referendum power lets voters put recent board actions on the ballot and reject them before they go into effect. Referendum procedures are similar to the initiative process.

- **Recall** elections allow voters to remove elected board members before their terms of office end. Recalls follow processes similar to initiatives and referenda. However, recall isn’t pos-
sible with cemetery districts and other special districts where the board members are appointed to serve fixed terms.

Or, you or your neighbors could run for the district’s board at the next election.

8. Why do special districts seem so invisible?
Special districts often escape wide public attention because their functions are narrow and technical. Sometimes, residents don’t pay attention to their special districts until something goes wrong. Like all local governments, however, special districts must conform to democratic safeguards such as the Brown Act, the Public Records Act, and the Political Reform Act.

9. How can I trust my special district’s leaders?
It’s true what they say --- the noblest motive is the public good. Public officials earn their constituents’ trust by continually pursuing the public good. Special district officials must hold open meetings, keep open records, and disclose their economic interests. See the answer to Question 8, above. Most governing board members and key staff must take an ethics training course every two years. Ask your district if its board members and staff are up-to-date.

10. How do I know if my special district is doing OK?
It’s also true that good government demands the intelligent interest of every citizen. Residents and property owners should pay attention to how public agencies, including special districts, pay for projects and programs. Besides attending your district’s board meetings and following its web page, you can review a district’s budgets, regular audits, and financial reports. Ask your county grand jury if it has investigated your district. In 2009-10, for example, the Lake County Civil Grand Jury reviewed the Lake County Vector Control District and then issued its findings and recommendations. Although it’s not a perfect guarantee, ask if your special district participates in the Special District Leadership Foundation (SDLF) awards program.

11. What happens when things go bad?
If you’re unhappy with a special district’s programs or projects, take your complaints directly to the district’s general manager and governing board. Local officials respond when their constituents write letters and speak up at board meetings. You can complain about economic conflicts of interest to the Fair Political Practices Commission. However, if you’re aware of criminal activity, then you need to take your allegations to the district attorney or county grand jury for formal investigation.

12. Where can I get more information about special districts?
Local resources:
- LAFCO’s municipal service reviews and spheres of influence.
- County clerk’s Roster of Public Agencies.
- County grand jury reports on specific districts.

Statewide resources:
- State Controller’s Special Districts’ Annual Report.
- Special district associations. See Appendix B.
Current Topics & Emerging Trends

You now know that special districts are really diverse. Although it’s tough to generalize about the trends affecting special districts, here are some general themes:

**How many is too many?** Special districts are California’s most numerous type of local government. There’s a lingering suspicion among the public and local officials that the number of special districts is growing. Some worry that increasing the number of independent special districts results in more bureaucracy and less efficiency.

However, using our definition of special districts, you can see that their numbers have actually gone down slightly over the last 30 years.

<table>
<thead>
<tr>
<th>Number of Special Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977-78</td>
</tr>
<tr>
<td>1987-88</td>
</tr>
<tr>
<td>1997-98</td>
</tr>
<tr>
<td>2007-08</td>
</tr>
</tbody>
</table>

Inside that 3% decline are three interesting trends. *First*, the number of county service areas has grown. CSAs are dependent special districts, always run by the county boards of supervisors. The number of dependent districts increased while the overall number of special districts went down. *Second*, the number of community services districts has also grown. Almost always independent special districts, CSDs are often multi-purpose districts, delivering more than one local service. The number of single-function districts declined. *Third*, while the number of special districts went down, California’s population grew by 2/3, from 22.4 million residents in 1977 to 37.7 million in 2007.

<table>
<thead>
<tr>
<th>Changes in the Number of Special Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Among the Ten Most Common Types</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>1977-78</th>
<th>2007-08</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>County service areas</td>
<td>727</td>
<td>895</td>
<td>+168</td>
</tr>
<tr>
<td>Fire protection districts</td>
<td>454</td>
<td>372</td>
<td>-82</td>
</tr>
<tr>
<td>Cemetery districts</td>
<td>263</td>
<td>252</td>
<td>-9</td>
</tr>
<tr>
<td>Community services districts</td>
<td>213</td>
<td>325</td>
<td>+112</td>
</tr>
<tr>
<td>County water districts</td>
<td>205</td>
<td>166</td>
<td>-39</td>
</tr>
<tr>
<td>California water districts</td>
<td>163</td>
<td>136</td>
<td>-27</td>
</tr>
<tr>
<td>Reclamation districts</td>
<td>157</td>
<td>156</td>
<td>-1</td>
</tr>
<tr>
<td>Resource conservation districts</td>
<td>139</td>
<td>96</td>
<td>-43</td>
</tr>
<tr>
<td>County sanitation districts</td>
<td>124</td>
<td>73</td>
<td>-51</td>
</tr>
<tr>
<td>Recreation &amp; park districts</td>
<td>118</td>
<td>108</td>
<td>-10</td>
</tr>
</tbody>
</table>

This table shows that multi-purpose districts, like county service areas and community services districts, are more popular than they were three decades ago. The decline in the number of sin-
gle-purpose districts over the last 30 years shows that some of these districts have consolidated with each other or have combined into multi-purpose districts. For example, several smaller fire districts in Sacramento County consolidated over the years to form the Sacramento Metropolitan Fire District (Sacramento County) in 2000. Also in Sacramento County, the Consumnes Community Services District formed in 1985 as the successor to the Elk Grove Fire Protection District and the Elk Grove Recreation and Park District, and expanded in 2006 when it annexed the adjacent Galt Fire Protection District.

**Land use planning and development.** Public policy, not public works, should determine the location, timing, and intensity of development. Counties and cities control land use within their own boundaries by adopting general plans and approving development projects. However, some critics say that special districts can block or distort local land use planning goals. Because special districts are major providers of water and sewer services, where (and when) they build water lines and sewer plants affects development. State law lets special districts override county and city general plans and zoning ordinances. Even though dependent special districts are governed by the same board or council that adopts the general plan, the majority of special districts have independent governing boards which may have different development ideas. Most independent districts work well with their city and county governments, but land use conflicts are possible.

**Municipal service reviews.** The 2000 report *Growth Within Bounds* by the Commission on Local Governance for the 21st Century prompted legislators to pass several statutory reforms, including new planning requirement for the Local Agency Formation Commissions (LAFCOs). To plan for the future boundaries and service areas of cities and special districts, a LAFCO must prepare informational reports called *municipal service reviews*, and then adopt a policy document for each city and district called a *sphere of influence*. LAFCOs’ decisions on annexations and other boundary changes must be consistent with the spheres of influence that they adopt for the affected cities or districts.

To inform those policy choices, municipal service reviews analyze six topics:

- Growth and population projections.
- Present and planned capacity of public facilities and adequacy of public services.
- Agencies’ financial abilities to provide services.
- Opportunities for sharing facilities.
- Accountability for community service needs.
- Other matters relating to effective or efficient services.

Preparing the initial round of municipal service reviews was hard for some of the LAFCOs and the special districts in their counties. Some districts resented what they thought was a LAFCO’s intrusion into internal district operations. Some LAFCOs were surprised to discover that special districts provided more services in more areas than they had previously known. The municipal service reviews can be superb sources of basic information about special districts’ operations, programs, facilities, and financing. Many LAFCOs post these service reviews on their websites.

**Accountability and responsiveness.** Good government is responsive government. Like many local agencies, special districts have worked harder in recent years to raise their public profile.
and reassure their communities that they’re spending public dollars wisely. Many districts belong to statewide associations that promote the special district form of government. See Appendix B for a list of those groups. These associations also offer training courses for special districts’ board members and staff.

Although it’s not a perfect guarantee of quality, you can ask your district if it has earned the “District of Distinction” designation from the Special District Leadership Foundation (SDLF). SDLF is a private, nonprofit group formed by statewide associations of special districts to encourage better governance practices. Has the SDLF awarded your district’s board its “Recognition in Special District Governance”? Has your district’s general manager earned SDLF’s “Special District Administrator Certification”?

In addition to these voluntary programs, a state law passed in 2005 requires ethics training for local officials (including special districts) who accept compensation for their service. Special districts designate their employees who must also receive ethics training. Every two years these board members and key staff must receive at least two hours of training in general ethics principles and ethics laws. Records of who has taken the required training are public documents, so you can ask your district if its governing board and staff are up-to-date.

**Revised state laws.** Recognizing that the state laws that govern special districts were outdated, legislators have revised the statutes that control nearly 2/3 of all districts. Many of these principal acts were decades old and had not kept pace with other statutory and constitutional changes. For example, legislators had not overhauled the Public Cemetery District Law since 1939. In the meantime, the voters amended the California Constitution to limit property taxes, impose spending limits, and require more public approval of taxes, assessments, and fees. Other initiatives created the Political Reform Act and changed local officials’ fiscal powers. The Legislature enacted and expanded the state laws on open meetings, public records, fiscal audits, special districts’ boundaries, land use planning, and public finance.

The Senate Local Government Committee responded by convening working groups to review the state laws that govern six types of special districts. Legislators translated the results of the working groups’ efforts into revised principal acts for fire protection districts (1987), recreation and park districts (2001), mosquito abatement and vector control districts (2002), cemetery districts (2003), community services districts (2005), and county service areas (2008). Appendix B lists the reports that explain these efforts.

**Vestigial districts?** Sometimes good ideas don’t always work out the way you intended. In 1968, grand visions convinced legislators to pass the El Dorado County Toll Tunnel Act which allowed the county supervisors to form a new dependent special district. This District has the power to bore a tunnel through the Sierra Nevada from Twin Bridges to Meyers, under Highway 50’s route over Echo Pass. Although that vision is unlikely to come true, more than four decades later, an inactive District still exists with the El Dorado County Board of Supervisors as its *ex officio* governing body.
Legislative experiments don’t always deliver on their promises either. In 1961, the Legislature passed the Resort Improvement District Law to help land developers set up multi-function special districts to serve remote subdivisions in rural counties. In 1965, the Assembly held hearings into special districts’ abuses and one result was to ban the formation of new resort improvement districts. Nevertheless, seven resort improvement districts in five counties remain in existence, including the dependent Stony Gorge Resort Improvement District (Glenn County). In 2010, the Legislature passed a bill making it easier to convert resort improvement districts into community services districts.
## Appendix A: Types of Special Districts (2007-08)

<table>
<thead>
<tr>
<th>Type of District</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Service Areas</td>
<td>895</td>
</tr>
<tr>
<td>Fire Protection Districts</td>
<td>372</td>
</tr>
<tr>
<td>Community Services Districts</td>
<td>325</td>
</tr>
<tr>
<td>Cemetery Districts</td>
<td>252</td>
</tr>
<tr>
<td>County Water Districts</td>
<td>166</td>
</tr>
<tr>
<td>Reclamation Districts</td>
<td>156</td>
</tr>
<tr>
<td>California Water Districts</td>
<td>136</td>
</tr>
<tr>
<td>Recreation &amp; Park Districts</td>
<td>108</td>
</tr>
<tr>
<td>Resource Conservation Districts</td>
<td>96</td>
</tr>
<tr>
<td>Irrigation Districts</td>
<td>94</td>
</tr>
<tr>
<td>Hospital Districts</td>
<td>80</td>
</tr>
<tr>
<td>County Sanitation Districts</td>
<td>73</td>
</tr>
<tr>
<td>Sanitary Districts</td>
<td>72</td>
</tr>
<tr>
<td>Public Utility Districts</td>
<td>54</td>
</tr>
<tr>
<td>Storm Water Drainage &amp; Maintenance Districts</td>
<td>49</td>
</tr>
<tr>
<td>Mosquito Abatement &amp; Vector Control Districts</td>
<td>46</td>
</tr>
<tr>
<td>Flood Control &amp; Water Conservation Districts</td>
<td>42</td>
</tr>
<tr>
<td>Municipal Water Districts</td>
<td>37</td>
</tr>
<tr>
<td>Water Agency or Authority</td>
<td>30</td>
</tr>
<tr>
<td>County Waterworks Districts</td>
<td>28</td>
</tr>
<tr>
<td>Memorial Districts</td>
<td>27</td>
</tr>
<tr>
<td>Drainage Districts</td>
<td>23</td>
</tr>
<tr>
<td>Transit Districts</td>
<td>15</td>
</tr>
<tr>
<td>Levee Districts</td>
<td>14</td>
</tr>
<tr>
<td>Harbor &amp; Port Districts</td>
<td>13</td>
</tr>
<tr>
<td>Library Districts</td>
<td>13</td>
</tr>
<tr>
<td>Water Conservation Districts</td>
<td>13</td>
</tr>
<tr>
<td>Airport Districts</td>
<td>10</td>
</tr>
<tr>
<td>Citrus Pest Control Districts</td>
<td>10</td>
</tr>
<tr>
<td>Water Storage Districts</td>
<td>8</td>
</tr>
<tr>
<td>Garbage Disposal Districts</td>
<td>8</td>
</tr>
<tr>
<td>Pest Control Districts</td>
<td>6</td>
</tr>
<tr>
<td>Municipal Improvement Districts</td>
<td>5</td>
</tr>
<tr>
<td>Municipal Utility Districts</td>
<td>5</td>
</tr>
<tr>
<td>Police Protection Districts</td>
<td>3</td>
</tr>
<tr>
<td>Sanitation &amp; Flood Control Districts</td>
<td>2</td>
</tr>
<tr>
<td>Water Replenishment Districts</td>
<td>2</td>
</tr>
<tr>
<td>Sewer District</td>
<td>1</td>
</tr>
<tr>
<td>Bridge &amp; Highway District</td>
<td>1</td>
</tr>
<tr>
<td>Joint Highway District</td>
<td>1</td>
</tr>
<tr>
<td>Metropolitan Water District</td>
<td>1</td>
</tr>
<tr>
<td>Separation of Grade District</td>
<td>1</td>
</tr>
<tr>
<td>Toll Tunnel Authority</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>3,294</strong></td>
</tr>
</tbody>
</table>
Appendix B: Special District Information Resources

Association of California Water Agencies (ACWA)
910 K Street, Suite 100
Sacramento, California 95814-3512
(916) 441-4545
www.acwa.com

California Association of Local Agency Formation Commissions (CALAFCO)
1215 K Street, Suite 1650
Sacramento, California 95814
(916) 442-6536
www.calafco.org

California Association of Public Cemeteries
2640 Glen Ridge Road
Escondido, California 92027
(888) 344-9858
www.capc.info

California Association of Recreation & Park Districts
P.O. Box 22671
Sacramento, California 95822
(916) 446-2098
www.carpd.net

California Association of Sanitation Agencies (CASA)
1215 K Street, Suite 2290
Sacramento, California 95814
(916) 446-0388
www.casaweb.org

California Municipal Utilities Association (CMUA)
915 L Street, Suite 1460
Sacramento, California 95814
(916) 326-5800
www.cmua.org

California Special Districts Association (CSDA)
1112 “I” Street, Suite 200
Sacramento, California 95814
(916) 442-7887
www.csda.net
Fire Districts Association of California (FDAC)
1215 K Street, Suite 2290
Sacramento, California 95814
(916) 231-2941
www.fdac.org

Mosquito & Vector Control Association of California
1215 K Street, Suite 2290
Sacramento, California 95814
(916) 440-0826
www.mvac.org

Public Cemetery Alliance
P.O. Box 494
Gridley, California 95948
(530) 846-2537
www.publiccemeteryalliance.com

Special District Leadership Foundation (SDLF)
1112 “I” Street, Suite 200
Sacramento, California 95814
(916) 231-2939
www.sdlf.org

The library at UC Berkeley’s Institute of Government Studies has an extensive collection of local government documents, including special districts’ documents and many grand jury reports:

Institute of Governmental Studies
University of California, Berkeley
109 Moses Hall
Berkeley, California 94720-2370
(510) 642-1473
http://igs.berkeley.edu/library/cagovdocs

The Institute for Local Government (a joint program of the League of California Cities and the California State Association of Counties) provides helpful resources to local officials and their constituents:

Institute for Local Government
1400 K Street, Suite 205
Sacramento, California 95814
(916) 658-8208
www.ca-ilg.org
The Senate Local Government Committee has compiled a descriptive list of the key state laws that affect local governments:

http://senweb03.senate.ca.govcommittee/standing/LOCAL_GOV/TheQuickList2009.pdf

The Committee has also published the statutory text and commentaries on the principal acts for six types of special districts:

[not available online]

http://senweb03.senate.ca.govcommittee/standing/LOCAL_GOV/PPPReport.pdf

http://senweb03.senate.ca.govcommittee/standing/LOCAL_GOV/SSSFINALREPORT.pdf

http://senweb03.senate.ca.govcommittee/standing/LOCAL_GOV/YEARSTOCOMEPUBLICATION.pdf

* Community Needs, Community Services: A Legislative History of SB 135 (Kehoe) and the “Community Services District Law”* Report 1348-S, March 2006.  
http://senweb03.senate.ca.govcommittee/standing/LOCAL_GOV/CNCSReport.pdf

http://senweb03.senate.ca.govcommittee/standing/LOCAL_GOV/STPIPublication.pdf

You can order printed copies of these reports directly from Senate Publications & Flags, 1020 N Street (B-53), Sacramento, California 95814. Discounts are available for multiple copies, but credit cards are not accepted. For ordering details, you should call Senate Publications directly at (916) 651-1538.
Appendix C: Sources for Questions & Answers

What’s behind our answers to the “Frequently Asked Questions” on pages 12-14? Here are the references we used.

We list the statutes by code, followed by the section number. For example, “Government Code §56000, et seq.” means that you can find the text as Section 56000 of the Government Code. The term “et seq.” is the abbreviation for a Latin phrase that lawyers use to mean “and following.” That means a state law starts at §56000, but continues for several more sections.

You can retrieve a statute’s text from the Legislature’s official website: www.leginfo.ca.gov.

If you want to see printed versions, you can go to your public library or a law library and read the published codes. Two publishers print the California statutes: West’s Annotated California Codes and Deering’s California Codes Annotated. Be sure to start with the “pocket part” in back of each volume. The pocket section has the latest versions of the statutes, including any recent amendments.

Question 1: How can I find out if I live in a special district?
Various definitions of “special district” are in Government Code §16271 (d), Government Code §50077 (d), Government Code §53720 (b), Government Code §56036, and Revenue & Taxation Code §95 (m). Also see California Constitution Article XIII C, §1 (c) (Proposition 218).

Question 2: How can I form a special district?

Question 3: Who picks my district’s governing board?
The Uniform District Election Law (Elections Code §10500, et seq.) controls most special districts’ elections. Some independent special districts’ governing boards are appointed. For example, see Health & Safety Code §9020, et seq. which requires county supervisors to appoint residents as a public cemetery district’s board of trustees.

Question 4: How can I find out who runs a special district?
Government Code §53051 requires county clerks to keep the Roster of Public Agencies.

Question 5: Can a special district tax me without my consent?
Property taxes. California Constitution Article XIII A, §1 (a) (Proposition 13) limits the property tax rate to 1% and tells county officials to allocate the property tax revenues, following state law. Revenue & Taxation Code §95, et seq. tells county officials how to allocate property tax revenues to local governments, including special districts.
Special taxes. California Constitution Article XIII A, §4 (Proposition 13) and Article XIII C, §2 (a) & (d) (Proposition 218) require special districts to get 2/3-voter approval for special taxes. Government Code §50075, et seq. and Government Code §53720, et seq. (Proposition 62) spell out the statutory procedures for levying special taxes. Government Code §53727 tells special districts that they need specific statutory authority before they levy special taxes. State law gives special tax authority to many types of special districts. For example, Government Code §61121 allows community service districts to levy special taxes. The Senate Local Government Committee describes special districts’ tax powers in Revenues and Responsibilities: An Inventory of Local Tax Powers.

http://senweb03.senate.ca.gov/committee/standing/LOCAL_GOV/REVENUESANDRESPONSIBILITIES.pdf

General obligation bonds. California Constitution Article XIII A, §1 (b) and Revenue & Taxation Code §93 allow local officials, including special districts, to charge extraordinary property tax rates outside the usual 1% limit to pay for general obligation bonds. State law allows many special districts to levy general obligation bonds, but only if they get 2/3-voter approval. For example, Public Resources Code §5790, et seq. spells out the procedures that recreation and park districts must follow to issue general obligation bonds.

Question 6: But what about special assessments? Aren’t they just like special taxes?
California Constitution Article XIII D (Proposition 218) contains the requirements for benefit assessments. Government Code §53750, et seq. contains the procedures for local weighted ballots. State law allows many special districts to charge benefit assessments. For example, Government Code §25216.3 allows county service areas to use benefit assessments.

Question 7: What can I do if I don’t like what my special district is doing?
Public meetings. California Constitution Article I, §3 (b) guarantees public meetings. The Ralph M. Brown Act (Government Code §54950, et seq.) requires local governments’ meetings to be open and public, with only limited exceptions. Government Code §53954.3 tells local officials that they must give the public an opportunity to speak at public meetings. However, disorderly conduct isn’t acceptable (Government Code §54957.9).


Question 8: Why do special districts seem so invisible?

Question 9: How can I trust my special district’s leaders?
The “public good” slogan appears above the west portal of the San Diego County Administration Center, 1600 Pacific Highway, San Diego. Government Code §53234, et seq. requires compen-
sated district board members and key district staff to take ethics training every two years. The training records are public records.

**Question 10: How do I know if my special district is doing OK?**

The “good government” slogan appears above the east portal of the San Diego County Administration Center, 1600 Pacific Highway, San Diego.

*Budgets.* Many special districts’ principal acts require them to adopt annual budgets. For example, see Health & Safety Code §2070 for mosquito abatement and vector control districts.

*Regular audits.* Government Code §26909 requires county auditors to regularly audit special districts’ accounts and records.

*Financial reports.* Government Code §53890, et seq. requires special districts to annually report their financial transactions to the State Controller. Government Code §12463 requires the State Controller to compile and publish the special districts’ financial transactions reports. They’re available both as books and online: [http://www.sco.ca.gov/ard_locarep_districts.html](http://www.sco.ca.gov/ard_locarep_districts.html).


*Special District Leadership Foundation.* The SDLF is a private nonprofit organization created by several special districts’ associations. More information is on its website: [www.sdlf.org](http://www.sdlf.org).

**Question 11: What happens when things go bad?**

California Constitution Article I, §3 (a) declares the public’s right to “instruct their representatives.” Government Code §54954.3 tells local officials that they must give the public an opportunity to speak at public meetings, but disorderly conduct isn’t acceptable (Government Code §54957.9). The Political Reform Act (Government Code §§81000, et seq.) prohibits public officials from having economic conflicts of interest. The Fair Political Practices Commission’s webpage explains how to file complaints: [www.fppc.ca.gov/index.php?id=498](http://www.fppc.ca.gov/index.php?id=498). Government Code §26500, et seq. explains that your county’s district attorney is the public prosecutor. Penal Code §925 allows your county grand jury to investigate special districts.
Sources & Credits

The following publications helped the Committee’s staff prepare this Fourth Edition:


The Senate Local Government Committee first published What’s So Special About Special Districts? in 1991, the result of a Senate Fellow project by April Manatt. After joining the Committee’s staff, Manatt produced a Second Edition in 1993. In 2002, Kimia Mizany, another Senate Fellow, wrote the Third Edition. In 2010, the Committee’s staff published this Fourth Edition. Peter Detwiler revised the text and Elvia Diaz produced the report. The Fourth Edition benefited from critical reviews by and helpful contributions from:

- David Aranda, North of the River Municipal Water District
- Dewey Ausmus, California Association of Public Cemeteries
- Bob Braitman, Braitman & Associates
- Bill Chiat, California Association of Local Agency Formation Commissions
- Ron Davis, Association of California Water Agencies
- Ralph Heim, Public Policy Advocates
- Iris Herrera, California Special Districts Association
- Katie Kolitsos, Assembly Local Government Committee
- Sashi Lal, Special Districts Reporting Section, State Controller’s Office
- April Manatt, April Manatt Consulting
- Geoffrey Neill, California State Association of Counties
- Catherine Smith, California Association of Sanitation Agencies
- Brian Weinberger, Senate Local Government Committee
Appendix D
I. Background and Purpose

The Coachella Valley Mosquito and Vector Control District (“District”) is an “independent special district” formed, operated and managed pursuant to the Mosquito Abatement and Vector Control District Law (Health and Safety Code § 2000 et. seq.). The primary purpose of the District and the Board of Trustees (“Board) is to ensure that the public is protected against the threat of vector-borne diseases. The Board is composed of at least five members. (Health and Safety Code § 2020).

II. Board of Trustees

The Board of Trustees is the governing body of the District.

A. Membership

The Board shall consist of a single representative of each incorporated city within the District’s boundaries and two representatives of the County of Riverside.

B. Eligibility

Trustees appointed to the Board should have “experience, training, and education in fields that will assistance them in the governance” of the District.

C. Appointment

Each Trustee shall reside in and be a registered voter in the jurisdiction of their appointing legislative body.
D. Term of Office

Each Trustee shall be appointed for a term of two or four years, as decided by his or her appointing legislative body.

E. Oath or Affirmation

Any person appointed to serve as a Trustee must take the oath or affirmation of office prior to formally and officially assuming his or her position as a Trustee.

F. Commencement of Term

Terms shall commence at noon on the first Monday in January.

G. Removal

Once assuming the position of a Trustee, the Trustee’s appointing body is not permitted to remove its Trustee at its discretion, unless otherwise provided by law.

H. Replacement of Trustee

A person appointed to fill the unexpired term of a Trustee shall serve the remaining term of the replaced Trustee.

I. Duty of Loyalty and Commitment

All Trustees shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of the District and represent the interests of the public as a whole and not solely the interests of the Board of Supervisors or the city council that appointed them.

III. Officers

A. Designated Elected Officers

The elected officers of the Board of Trustees ("Board") shall consist of:

1. President
2. Vice President
3. Secretary
4. Treasurer
B. Duties of Officers

1. President
   a. The President shall serve as the presiding officer of all Board and all Executive Committee meetings.
   b. The President shall sign all acts, orders, resolutions and proceedings of the Board.
   c. When necessary, the President shall be the official representative of the District. The President shall have the power, at the direction or consensus of the Executive Committee, to establish committees and subcommittees and appoint their members. The President shall also have any other powers as may be delegated by the Board from time to time.
   d. The President shall serve as the alternate on all committees and attend any committee meeting as an official participant in the event the respective committee will not or does not have a quorum present to conduct an official meeting pursuant to the Brown Act.

2. Vice President
   In the temporary absence of the President, the Vice President shall assume duties of the President.

3. Secretary
   a. The Secretary shall assist the President as necessary. In the temporary absence of the President and Vice President, the Secretary shall assume the duties of the President.
   b. It shall be the duty of the Secretary to authenticate, by his/her signature when necessary, all the acts, orders and proceedings of the Board.

4. Treasurer
   a. In the temporary absence of the President, the Vice-President and the Secretary, the Treasurer shall assume duties of the President.
b. It shall be the duty of the Treasurer to serve as the Chair of the Finance Committee and to perform any other such duties assigned by the Board.

c. The Treasurer shall exercise those duties as assigned to the Treasurer by the applicable provisions of the California Health and Safety Code.

C. Terms of Office

The term of each office shall be one year. No officer shall serve more than four consecutive terms in the office to which elected. Partial terms shall not be considered in determination of consecutive terms.

D. Eligibility to Hold Office

Any Trustee may be elected to any office, provided that he or she has served as a Trustee for one calendar year.

E. Election of Officers

Officers shall be elected annually, with the election held at the first regular meeting in the month of January and commencement of officers’ terms shall take effect immediately upon election to office.

Prior to the election of officers, the Executive Committee shall appoint a Nominating Committee, which shall recommend one candidate for each office. Recommendations of the Nominating Committee shall be submitted to the Board for consideration at the January Board meeting. Nominations may be made from the floor when election of officer is held. Each Board member shall have one vote.

F. Removal

Officers serve at will and may be removed by a majority vote of the Board at any time with or without cause in the context of a noticed public meeting.

G. Succession

There shall be no automatic succession of officers upon the vacation of a superior officer position prior to the expiration term of the superior officer’s position. A vacated officer position shall be filled by a majority vote of the Board at the earliest time possible in the context of a noticed public meeting.

IV. Board Meetings
A. Applicable Laws and Regulations

All Board meetings shall be conducted in accordance with Sections 2000 et seq. of the California Health and Safety Code and Government Code sections 54950, et seq. (the “Brown Act”) and any and all laws governing public meetings.

B. Types of Meetings

1. Regular Meetings

Regular Meetings will be held the second Tuesday of each month, commencing at 6:00 p.m. at the District’s Headquarters located at 43-420 Trader Place, Indio, California.

2. Special Meetings and Emergency Meetings

Special Meetings and Emergency Meetings may be called and held from time to time pursuant to the procedures set forth in the Brown Act.

3. Adjourned Meetings

The Board may adjourn any Board Meeting to a time and place specified in the order of adjournment pursuant to the procedures set forth in the Brown Act.

C. Cancellation of Meetings

Any meeting of the Board may be canceled in advance by a majority vote of the Board.

D. Location of Meetings

All Board Meetings shall be held in the Board Room located at the District Headquarters at 43-420 Trader Place, Indio, California, unless otherwise designated by the President or the Board. However, the Board may, from time to time, elect to meet at other locations within the District and upon such election will give public notice of the change of location in accordance with the Brown Act.

E. Quorum

A majority of the Board will constitute a quorum, but a lesser number may adjourn a meeting.
F. Presiding Officer

The President will preside over all Board meetings. The President will have authority to preserve order at all Board meetings, to remove any person from any meeting of the Board for disorderly conduct, to enforce the rules of the Board and to determine the order of business under the rules of the Board.

G. Closed Sessions

Trustees may not reveal the nature of discussion or decision from a closed session unless required by law or unless a majority of the Board agrees in closed session to disclose confidential closed session information.

H. Minutes

The Clerk of the Board will have exclusive responsibility for preparation of the minutes which shall be recorded with the District’s Minute Book. In absence of the Clerk, the presiding officer shall appoint an acting Clerk to record the meeting minutes.

I. Order of Business

The business of the Board at its meeting will generally be conducted in accordance with the order of business as listed on the agenda. The President may, with the concurrence of a majority of the Trustees present, reorder items on the agenda to accommodate the public or to address other concerns.

J. Rosenberg’s Rules of Order

Except as provided herein, other rules adopted by the Board and applicable provisions of state law, the procedures of the Board will be governed by the latest revised edition of Rosenberg’s Rules of Order, without the provision requiring a super-majority vote for certain motions, as attached hereto.

K. Parliamentarian

The President may appoint a Parliamentarian. If the Parliamentarian is absent at a Board meeting, the presiding officer may make a temporary appointment.

L. Disqualification for Conflict of Interest

Any Trustee who is disqualified from voting on a particular matter by reason of a conflict of interest will publicly state or have the presiding officer state the nature of the disqualification in open meeting. Where no clear disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Trustee affected, be decided by the other Trustees. A Trustee who is disqualified by
reason of a conflict of interest in any matter may not remain in his/her seat during the debate and vote on the matter, but will request and be given the permission of the presiding officer to step down from the dais and leave the Board Room during discussion and action on the matter. A Trustee stating disqualification will not be counted as a part of a quorum and will be considered absent for the purpose of determining the outcome of a vote on the matter.

M. Absences

The Board reserves the right to determine whether a Trustee’s absence under the circumstances at a particular Board Meeting is excused. More than two consecutive unexcused absences shall be reported to the absent Trustee’s appointing body.

VI. Committees

A. Standing Committees

1. Executive Committee

There shall be an Executive Committee which shall consist of each officer. The Executive Committee shall assist with the preparation of the Board agendas and assume all duties and assignments as may be assigned by the Board. The Executive Committee shall conduct its meetings in accordance with the Brown Act and it shall meet on an as-needed basis or as may be requested by any member of the Executive Committee.

2. Finance Committee

There shall be a Finance Committee which shall consist of three to four Trustees, which shall include the Treasurer who shall serve as the Chair of the Finance Committee. The Finance Committee shall review the District’s draft Budget prior to formal submittal to the Board and provide oversight of the District’s finances as may be requested by the Chair or the Board.

B. Subcommittees

A subcommittee, also known as an “ad hoc subcommittee,” is one that consists solely of less than a majority of the Board of Trustees and has temporary subject matter jurisdiction over a particular issue, matter or task until it is terminated, completed or otherwise resolved.
VII. Waiver of Rules

Any of the foregoing rules may be waived by majority vote of the Board present when it is deemed that there is good cause to do so based upon the particular facts and circumstances involved.

VIII. Ethics Training

Each Trustee shall comply with the required Ethics Training provisions of State Law.

IX. Amendment of Bylaws

The Bylaws may be amended by a simple majority vote of the entire Board.
Appendix E
RESOLUTION NO. 2016-13

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE COACHELLA VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT BIENNIAL ADOPTION OF CONFLICT OF INTEREST CODE

WHEREAS, the Coachella Valley Mosquito and Vector Control District ("District") is a special district and local government agency required by Government Code Section 87300 to promulgate a Conflict of Interest Code; and

WHEREAS, the Political Reform Act (Government Code Section 81000, et seq.) requires the District to adopt and promulgate a conflict of interest code; and

WHEREAS, the Fair Political Practices Commission ("FPPC") has adopted a provision at Title 2, section 18730 of the California Code of Regulations which sets forth the terms of a standard model conflict of interest code which may be incorporated by reference so as to constitute the adoption of a Conflict of Interest Code by the District; and

WHEREAS, the FPPC requires that every local agency review its Conflict of Interest Code every even-numbered year to determine whether amendment of its code is necessitated by changed circumstances; and

WHEREAS, the District's Board of Trustees desires to amend the District's Conflict of Interest Code by adding to the list of persons designated as being subject to the Code, the position of Public Information Manager.

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE COACHELLA VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals.

The recitals set forth above are true and correct.

Section 2. Recession.

That all previously adopted resolutions approving the District's Conflict of Interest Code are hereby rescinded.

Section 3. Code Adoption.

The District hereby adopts, by this reference, the model conflict of interest code promulgated by the FPPC as Regulation 18730 of Title 2 of the California Code of Regulations ("FPPC Model Conflict of Interest Code") as the Conflict of Interest Code for the Coachella Valley Mosquito and Vector Control District ("District Conflict of Interest Code"). A copy of the FPPC Model Conflict of Interest Code effective as of the date of adoption of this resolution is attached as Exhibit A. Future amendments to the FPPC Model Conflict of
Interest Code approved by the Fair Political Practices Commission are hereby incorporated into the District Conflict of Interest Code.

Section 4. Disclosure Categories and Designated Positions.

(a) Those officials, employees and consultants designated in the attached Appendix A - Disclosure Categories and Designated Positions ("Appendix A"), incorporated herein by this reference as though fully set forth, shall be subject to the provisions of the District Conflict of Interest Code pursuant to the applicable disclosure categories.

(b) Any consultant who performs the ongoing duties of any of the designated positions shall be assigned the same disclosure categories as that position, subject to the following limitation: The District Manager may determine in writing that a particular consultant, although a designated position, is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The District Manager's determination shall be filed with the District’s Secretary and is a public record and shall be retained for public inspection in the same manner and location as the District Conflict of Interest Code.

Section 5. Filing.

Pursuant to Title 2, section 18730(b)(4) of the California Code of Regulations, those officials, employees and consultants designated in Appendix A shall file statements of economic interest with the Finance Manager to whom the Board of Trustees of the Coachella Valley Mosquito and Vector Control District hereby delegates the authority to carry out the duties of filing officer. The annual statement of economic interests shall be duly filed no later than April 1 of each calendar year.

Section 6. Prohibition Concerning Prospective Employment.

No District employee who is designated in Appendix A shall make, participate in making, or otherwise use his or her official position to influence any governmental decision directly relating to any person with whom he or she is negotiating or has any arrangement concerning, prospective employment. For purposes of the District Conflict of Interest Code, the term “person” includes any natural person, corporation or other form of business entity and extends to any of its agents.

Section 7. Ethics Training.

Those employees designated in Appendix A shall be required to attend ethics training as set forth at Government Code section 53235.

Section 8. Violations.

Violations of the District Conflict of Interest Code by any employee designated in Appendix A may result in discipline up to and including termination. Alleged violations of this
Code by an employee shall be processed as otherwise provided in the District’s personnel policies and procedures.

Section 9. Transmission to the County.

The Board of Trustees hereby authorizes the Secretary to transmit a copy of this Resolution to the Board of Supervisors of the County of Riverside ("Board of Supervisors") for their approval as the code reviewing body for the District.

Section 10. Effective Date.

This Resolution shall take effect upon its approval by the Board of Supervisors.

Section 11. Certification.

That the Clerk of the Board shall certify to the passage and adoption of this resolution, enter the same in the book for original resolutions of the District, and make a minute of passage and adoption thereof in the records of the proceedings of the Board, in the minutes of the meeting at which this resolution is passed and adopted.

PASSED, ADOPTED AND APPROVED, this 12th day of July, 2016.

[Signature]
Doug Walker, President
Board of Trustees

ATTEST:

[Signature]
Crystal G. Moreno, Clerk of the Board

APPROVED AS TO FORM:

[Signature]
M. Katherine Jenson, General Counsel

REVIEWED:

[Signature]
Jeremy Wittie, MS, General Manager
EXHIBIT “A”
FPPC MODEL CONFLICT OF INTEREST CODE
Effective as of July 12, 2016

[attached]
APPENDIX A

APPENDIX TO THE CONFLICT OF INTEREST CODE
FOR THE COACHELLA VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT

II. Disclosure Categories

The following categories of reportable economic interests are established:

Category 1: Persons in this category shall disclose on FPPC Form 700, Schedule B, all reportable interests in real property located within the jurisdictional boundaries of the District, or within two miles of the District’s jurisdictional boundaries, or within two miles of land located outside the District’s jurisdictional boundaries which is owned or used by the District.

Category 2: Persons in this category shall disclose on FPPC Form 700, Schedules C and D, all reportable income, loans and business positions.

Category 3: Persons in this category shall disclose on FPPC Form 700, Schedules A-1 and A-2, all reportable investments.

Category 4: Persons in this category shall disclose on FPPC Form 700, Schedules E and F, all reportable gifts and travel payments.

II. Designated Positions

A “Designated Position” is an officer, employee, member or consultant of the District whose position is designated in the District Conflict of Interest Code because the position entails the making or participation in the making of governmental decisions that may foreseeably have a material effect on any financial interest as set forth at Government Code section 82019.

Any Designated Employee whose position is listed in the following table shall be required to file a Statement of Economic Interest with the Board of Supervisors of the County of Riverside, the District’s code reviewing body.

<table>
<thead>
<tr>
<th>DESIGNATED POSITION</th>
<th>DISCLOSURE CATEGORY(IES)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Manager</td>
<td>1, 2, 3, 4</td>
</tr>
<tr>
<td>Administrative Finance Manager</td>
<td>1, 2, 3, 4</td>
</tr>
<tr>
<td>Information Technology Manager</td>
<td>1, 2, 3, 4</td>
</tr>
<tr>
<td>Human Resources Manager</td>
<td>1, 2, 3, 4</td>
</tr>
<tr>
<td>Public Information Manager</td>
<td>1, 2, 3, 4</td>
</tr>
<tr>
<td>Laboratory Manager</td>
<td>1, 2, 3, 4</td>
</tr>
<tr>
<td>Operations Manager</td>
<td>1, 2, 3, 4</td>
</tr>
<tr>
<td>Clerk of the Board</td>
<td>1, 2, 3, 4</td>
</tr>
<tr>
<td>Consultants who perform the ongoing duties of any Designated Position</td>
<td>To be determined by the General Manager per the District Conflict of Interest Code</td>
</tr>
</tbody>
</table>
Appendix F
# Table of Contents

Preface .................................................................................................................................................................................. 1
Introduction ............................................................................................................................................................................. 2
Chapter I ................................................................................................................................................................................... 5
Chapter II .................................................................................................................................................................................. 7
Chapter III ............................................................................................................................................................................... 11
Chapter IV ............................................................................................................................................................................... 12
Chapter V ............................................................................................................................................................................... 16
Chapter VI ............................................................................................................................................................................... 21
Appendix .................................................................................................................................................................................. 23

**Appendix 1:**
- Summary of Napa County Mosquitoes
- Aedes Mosquitoes of California
- Anopheles Mosquitoes of California
- Culex Mosquitoes of California
- Culiseta Mosquitoes of California
- Miscellaneous Mosquitoes of California
- Mosquitoes Introduced to California
- Other Arthropod and Mammal Vectored Diseases

**Appendix 2:**
- Health and Safety Codes

**Appendix 3:**
- Health and Safety Code Sections

**Appendix 4:**
- Summary of Statement No. 45:
  - Accounting and Financial Reporting by Employers for Postemployment Benefits Other

**Appendix 5:**
- Summary of Statement No. 54: Fund Balance Reporting and Governmental Fund Type Definitions
Preface

This 2012 revision of the Trustee Reference Manual has been prepared for trustees of mosquito abatement, vector control and pest abatement districts in California.

The purpose of the manual is to review the history and function of such agencies, and to outline the primary responsibilities of the trustees serving on their respective boards.

This manual supplements individual district policy manuals, vector control publications, and other germane material available at the local level. This manual is not a substitute for legal advice and it should not be construed as legal advice.
Introduction

Mosquitoes have plagued man since prehistoric times. It has been possible to identify pest species since 1800, but only in the last 110 years has proof existed that mosquitoes can transmit parasites of man and other animals. Entomologists began to develop effective mosquito control measures as early as 1900.

Great advances in the knowledge of mosquitoes and their control were made prior to World War II. During the war period, the urgent need for protection of personnel from malaria-transmitting mosquitoes resulted in the formulation of chlorinated hydrocarbon insecticides, development of the four-wheel drive jeep as a mosquito control vehicle, and modifications of aircraft for spraying extensive acreage of mosquito breeding waters. These war-born developments were quickly adapted to civilian programs after the war.

Repeated exposure to chemical insecticides resulted in many populations of mosquitoes becoming physiologically resistant, so that insecticides frequently failed to provide satisfactory control. Of necessity, mosquito control agencies were forced to re-examine control technology.

“First, know well the mosquito,” was a statement made over 90 years ago by Professor W. B. Herms, world-famous pioneer mosquito research specialist at the University of California. He meant that the more one knows of the habits and biology of the mosquitoes, the more effectively one can control them.

There are 3,000 species of mosquitoes known throughout the world. Most, but not all, feed upon mankind and other animals. They feed upon birds, reptiles, and mammals. Several species have even been observed feeding on fishes. Over fifty described species of mosquitoes occur in California, but only about 12 of these are considered to be of importance to human health and comfort.

Mosquitoes must have water, food, and some shelter from the elements to survive. Most require a blood meal to develop viable eggs, but some species can reproduce without obtaining blood.

Individual mosquito species have definite life style preferences. They often show considerable variation from normal patterns. All mosquito species originated in the wilds but many have adapted to the easy living conditions provided by man in association with his use of water. Consequently, the mosquito populations of developed or urban areas may rival those in the unimproved and rural areas.

Flight habits vary greatly. Some mosquitoes stay close to the water in which they developed. Others may fly distances of up to 40 miles and extreme flights up to 110 miles with favorable winds have been documented.

More than 60,000 (of nearly 164,000 sq. mi.) square miles of land are already included within the boundaries of local mosquito and vector control agencies in the State of California.
Mosquitoes, Vectors & Public Health
The history and importance of mosquito control are founded on the direct relationship of mosquitoes to the health, comfort, and economy of man. In early historic times some societies undertook drainage projects to remove the sources of mosquitoes and other biting Diptera (flies) that plagued them.

Today, mankind is most aware of and concerned about mosquitoes for their disease transmission potentials, which are of great significance throughout the world. Malaria, yellow fever, filariasis, and the encephalitides are well known infections of man that are transmitted by mosquitoes, but less well known are many prevalent diseases of domesticated animals such as equine encephalitis and heartworm of dogs.

Other vectors and carriers, such as cockroaches, filth flies, biting flies, biting gnats, ticks, fleas, and rodents are involved in the transmission of diseases such as plague, dysentery, Lyme disease, relapsing fever, leptospirosis, and blue tongue of sheep.

Malaria
“Malaria” is the collective name for a group of four similar infections of mankind caused by single celled organisms known as protozoans. The malaria parasite is transmitted from infected reservoirs to uninfected individuals by female Anopheles mosquitoes. Malaria was a scourge to our Central Valley during the 19th Century and until mosquito control programs effectively curbed transmission in the 1920’s. Today, malaria in California can be transmitted through the bite of a vector or the use of infected needles. Regardless of the source of the infection, the parasite may be transmitted with equal facility by the Anopheles vector species in the area. Periodically, various areas in California have experienced increased malaria incidence. Malaria could become epidemic in regions lacking effective control programs.

Encephalitis (mosquito-borne)
Mosquitoes are vectors of several types of viral encephalitides that occur naturally in California. These diseases include St. Louis encephalitis (SLE), western equine encephalomyelitis (WEE) and California encephalitis (CE). Both SLE and WEE are important public health diseases that have caused human epidemics at various times, and WEE affects horses as well. Recently another encephalitis virus, West Nile virus (WNV), has spread across the United States.

Plague
Plague is caused by a bacterium that is transmitted from rodent to rodent or from rodent to man by fleas. Plaguecirculates in wild rodents such as ground squirrels, chipmunks, and wood rats. Periodically, epidemics occur in the world rodent populations, necessitating flea and rodent control measures in parks or other undeveloped areas. Rat-borne plague is a concern wherever domestic rats come into contact with the wild rodent population.
West Nile Virus [WNV]
WNV was first found in California in 2003. WNV has caused major disease epidemics in human, equine, and avian populations in areas where it has spread. Currently, there are no preventative encephalitis vaccines for humans; therefore the best human defense is an effective public health mosquito control program.

Lyme Disease
Lyme disease is a bacterial disease that is transmitted to humans and other animals in California through the bite of an infected Western black-legged tick. The tick infection rate in most of California appears to be low, however increased from 2003 levels. Any increase in tick populations can result in an increase in the incidence potential of the disease.

Other Arthropod and Mammal Vectored Diseases
What are vectors? Vectors are organisms, usually arthropods or mammals, which transmit a disease from a source to humans or livestock or that may produce human discomfort. Vectors include mosquitoes, ticks, rodents, and bats. Other significant potential pests of humans and livestock include yellow jackets, Africanized and European honeybees, stinging ants, and biting flies.

Economic Importance
Impacts from Vector-transmitted diseases affecting mankind result in the loss of time, money, health, productivity, and the economic potentials of a community.

Economic losses from mosquitoes and other vectors are measured in reduced human and animal productivity, increased medical care expenses, possible loss of life, reduced tourist trade and, recreational activities, lowered real estate values, and reduced land development.

The control of mosquitoes and other vectors can be expensive in that it requires surveillance, monitoring, utilization of appropriate physical, chemical, and biological control measures, public education, and the employment of knowledgeable trained personnel. In most communities with vector control, a portion of each citizen’s tax dollar pays for all or some of the vector control costs. In other districts, revenues are generated or supplemented by special tax, assessment and other local revenue.
History of Mosquito Control in California

Initial mosquito control action in California
The first recorded mosquito control efforts in California were under the direction of University of California professors and employed against the salt marsh mosquitoes of the San Francisco Bay marshlands at San Rafael (1904), and at Burlingame (1905).

First anti-malaria control efforts
The devastating effects of malaria in California’s Central Valley in 1908 led to an education and demonstration program on malaria and anopheline mosquito control conducted by professor William B. Herms of the University of California, Berkeley, and sponsored by the Southern Pacific Railway. The first organized anti-malaria program was undertaken at Penryn in the Sacramento Valley in 1910, and later the same year an anti-malaria program was started in nearby Oroville.

First legislated abatement agencies
Enabling legislation for the creation of organized mosquito control agencies was passed May 29, 1915, when the State Legislature approved the Mosquito Abatement Act. The Marin, Three Cities, and Oroville Mosquito Abatement Districts (MAD) were formed in 1915-16, with the Los Molinos, Pulgas and Dr. Morris (Kern) MADs being established in the following year.

Pest abatement districts
Legislation authorizing the creation of pest abatement districts was passed in 1935, but only a few such districts have been formed for mosquito control. The Carpinteria Pest Abatement District, formed in 1936, and the Eastside District, formed in 1939, are two. In pest abatement districts, the powers and legal bases are very similar to mosquito abatement districts, but the former provide for abatement of “any plant, animal, insect, fish, or other matter or material” as deemed a pest.

Coordinating role of state health
The State Department of Public Health (Department of Health Services) created a Bureau of Vector Control (Environmental Management Branch) in 1946. The Branch was staffed with experts who assisted in the formation of many new mosquito abatement districts. The Branch also provided a number of technical services including disease surveillance and research studies throughout California.

Current status of control agencies
There were 82 organized mosquito and vector control agencies in 2012, 65 of which were members of the MVCAC. These agencies had a combined operating budget totaling 75.8 million dollars. They provided control measures against mosquitoes, chaoborids (phantom midges), chironomids (non-biting midges), rodents, and other pests and vectors for 37.3 million California residents.
Present and future challenge:

Costs and the complexity of mosquito and vector control in California have increased markedly since the adoption of various state and federal environmental protection laws since the late 1960s. Continuous increases in the number of governmental regulations and permitting bodies have greatly altered and restricted chemical usage for pest control and expanded wetlands protection. In addition, in recent decades, districts have developed improved and more environmentally sensitive integrated pest management programs that strive to minimize pesticide use.

The rising cost of development of alternative chemical and bio-rational control products combined with the resistance of many vector species to existing pesticides, continue to hamper control measures.

Newly emerging or introduced vector borne diseases (such as West Nile virus and hantavirus) and the introduction of non-native species (such as Aedes albopictus) have reinforced the need for consistent, effective mosquito and vector monitoring and control.

In an era of increasing health hazard to more people, of more regulatory restrictions, and a voting public imbued with curtailing the high cost of government, it may become more difficult to provide the protective vector control services that the public desires. These are the challenges faced by trustees of district boards. Solutions will demand the collective wisdom and support of the district trustees and staff, augmented by support of the community’s residents, in order to continue the districts’ public health mission.
Chapter II

District Governing Boards: The Legal Basis

Enabling legislation: Mosquito Abatement Act
In 1915 the California Legislature adopted the “Mosquito Abatement Act.” The act has since been amended and incorporated into the California Health and Safety Code as Chapter 1 of Division 3. There was a comprehensive revision of the statute in 1939 and 2002. The primary statute now is referred to as the Mosquito Abatement and Vector Control District Law. The Law forms the basis for the creation, administration, governing powers, and functions of mosquito abatement and vector control districts. The majority of vector control districts have been organized under this Law.

Division 3, Chapter 8 was adopted in 1935 enabling the formation of pest abatement districts (Health and Safety Code§ 2800 et seq.). A few districts have been organized as pest abatement districts.

The following are some key provisions of the Mosquito Abatement and Vector Control District Law (Health & Safety Code Div. 3, Chap. 1):

**Appointed Representatives:** Ch. 5, Article 3, §§ 2021, 2022
These sections provide for the appointment of trustee representatives to form a district governing board (known as the board of trustees) of not fewer than five members. Usually each incorporated city within the district appoints a representative and the county board of supervisors appoints one to five representatives from the county-at-large. All members of the board of trustees must be electors and residents of the appointing county or city.

**Terms of Office:** Ch. 5, Article 3, §§ 2023, 2024
Terms of office for trustees may be for a term of two or four years, at the discretion of the appointing power. Terms commence of the first Monday of January. When a district is created, the statute provides for staggered terms.

A vacancy on the board (e.g., through resignation, death, or removal from office) must be filled by the appointing city or county within 90 days after the event creating the vacancy. Any person appointed to fill a vacant board seat shall fill the balance of the unexpired term.

It is usual practice for the secretary of the board (or his/her designated representative) to notify the appointing bodies regarding a member’s expiration date in advance so reappointment or replacement can be accomplished in a timely manner. It is important for the appointing city or county to specify whether an appointment is for a two-year or four-year term.

A trustee may be removed from office before expiration of his or her term only in limited circumstances: (a) upon resignation, death or conviction of certain crime; (b) for willful or corrupt misconduct in office; or (c) upon the occurrence of certain specified events that creates a vacancy in the office. A trustee cannot be removed at will by the appointing city or county prior to expiration of his or her term of office. Likewise, a trustee cannot be removed by the district.
Trustee Stipend, Expense Reimbursement and Benefits
Trustees serve without compensation. However, a district may pay a trustee to cover his or her traveling and incidental expenses incurred in connection with the trustee’s service on the board. For monthly board meeting attendance and other ordinary official expenses, a trustee may be paid either the trustee’s actual and necessary traveling and incidental expenses or a flat stipend amount up to $100/month (a trustee may not be compensated on a per meeting basis). In addition, for attending professional, educational and vocational meetings (e.g., MVCAC, VCJPA, AMCA and CSDA conferences and meetings), a trustee may be paid his or her conference-related actual and necessary traveling and incidental expenses. For a district that reimburses trustee expenses, it must adopt and implement an expense reimbursement policy in accordance with Government Code requirements.

Expense reimbursement payments are not treated as taxable income to the trustee if the payments are made under an “accountable plan” consistent with federal Internal Revenue Service requirements. However, payment of a flat stipend is considered taxable income to the trustee and it should be reported on IRS Form W-2 with applicable withholdings and taxes.

A district board of trustees may provide and pay for health and welfare benefits (e.g., medical and dental insurance) to current trustees if the benefits are the same as those offered to large numbers of district employees. The benefits provided to trustees can be no greater than those received by regular district employees.

For districts that participate in the Public Employees Retirement System (PERS), the district trustees are not entitled to participate in the retirement plan. For districts that participate in other retirement plans, trustee eligibility would be governed by the laws and plan documents that govern the retirement plan; however, it is doubtful that a trustee would be eligible.

Election of Board Officers: Article 3, §§ 2027
In January of every year or every other year (as determined by the board of trustees), the board must elect a president and a secretary to provide for district organization. The president must be a trustee. The secretary may be either a trustee or a district employee. Many districts also elect a vice-president and find it advisable to establish procedures for election succession and term limits of board officers.

Board Meetings: Article 3, §§ 2028-2029
The district board must establish a time and place to hold its regular meetings and rules of procedure for these meetings based upon current applicable statutes and regulations. The board of trustees shall meet at least once every three months and all meetings of the board of trustees 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.

Board Voting: Article 3, § 2029
The board of trustees may act only by ordinance, resolution or motion. A majority of the board constitutes a quorum for the transaction of business. Except as otherwise provided by statute, a recorded vote of a majority of those trustees present and voting (i.e., majority of a quorum) is required for the board to take action.
District powers: Ch. 5, Article 3, §§ 2040-2055

A district’s principal powers are delineated in the Health and Safety Code, primarily sections 2040 to 2093. Consult the code to review all of a district’s powers. The listed powers include:

- Take any and all necessary actions to prevent the occurrence of or abate or control vectors or vector borne diseases.
- Conduct surveillance programs of vectors and vector borne diseases.
- Enter properties without hindrance or notice, either in the district or reasonably adjacent to the district, for the purpose of inspection or control; however, the U.S. California Constitutions confer a right of privacy on persons with backyards and other private areas and an inspection and abatement warrant may be required to enter such protected areas. Any person hindering a district officer or employee is guilty of a misdemeanor.
- Participate in, review, comment and make recommendations regarding, local, state or federal land use planning and environmental quality processes, documents, permits, licenses and entitlements for projects and their potential effects on vector or vector borne disease production.
- Exercise all rights and powers necessary to carry out its stated powers as a mosquito or vector control district.

All powers are bestowed upon the collective board of trustees and not to the individual trustee member. These powers may be exercised only at a public meeting. Specific powers may be granted to trustee committees or individual members of the board or to management employees by public action of the board.

During the last several decades, there has been an expansion of various federal laws and regulations that must be complied with in vector control (e.g., wetlands protection, NPDES permits, pesticide regulation, and endangered species protection). It is advisable for districts to coordinate with local, state, and federal agencies in order to cope with the various regulatory powers and restrictions.

**Trustee Responsibilities and Liabilities**

State law requires trustees to exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole (and not solely the interests of the board of supervisors or the city council that appointed them) in serving on a board of trustees. (§ 2022(e).

This manual presents background information to aid individual board members in decision making to better fulfill the obligations to their constituency, the district, and the staff that serves them; and to aid in the effectiveness of the whole board and its members.

Various statutes have been adopted into the California codes to prevent abuse of public trust as well as to protect the public from wrongdoing by elected and appointed officials. For more information, see the ethics-related publications prepared by the Institute for Local Government at [www.ca-ilg.org/ethics-publications](http://www.ca-ilg.org/ethics-publications).

The Ralph M. Brown Act (open meeting law) allows access by the public to business conducted by public agencies. Exceptions to public accessibility are provided for by allowing closed sessions related to specific items such as land negotiations, conferences with legal counsel regarding litigation, security, and certain employee matters, as defined in the act.
A conflict of interest code and financial disclosure requirements were instituted as part of the Government Code in 1976. Boards of trustees must adopt an approved conflict of interest code for their agency. It is required that all trustees and certain district employees file a financial disclosure statement (FPPC Form 700) in accordance with the Government Code and local code. The form must be filed when assuming office, annually, and when leaving office.

Enacted in 2004, AB 1825 requires employers to provide effective training to all supervisory employees on the prevention of sexual harassment, discrimination, and retaliation. Passed a year later, AB 1234 requires mandatory ethics training for local officials. AB 1234 applies to those trustees who are compensated for their service or reimbursed for their expenses. AB 1825 probably applies to trustees if they hire, review and fire any employee (e.g., the manager); however, the statute is uncertain. If applicable, trustees must have sufficient two-hour training to conform to each statute, every two years. A certificate of training should be issued stating the name of the trustee, date, instructor and topic and certifying that two hours of training occurred.

**Liability for Acts and Omissions of Trustees**

There is a substantial body of law relating to local government agency liability for the acts and omissions of the agency’s employees, officers and board members. The liability and immunity of local government agencies is controlled principally by the Government Claims Act (Government Code Title 1, Division 3.6). The Act establishes the following basic principles:

- A government agency is immune from liability except as provided by statute.
- A government agency employee or officer (which includes district trustees) is liable for injuries caused by his or her act or omission to the same extent as a private person, except as otherwise provided by statute.
- A government agency is vicariously liable for the injuries caused by its employees and officers.
- A government agency is immune from liability when its employee or officer is immune, except as otherwise provided by statute.

The Government Claims Act contains a number of immunities that shield trustees against liability in many situations. However, a trustee risks losing applicable immunities when he or she acts unilaterally, acts outside of duly noticed board and committee meetings, or takes individual action against or involving individual district employees.

The Government Claims Act governs liability under state law. There also is the potential for liability under federal law, principally for federal claims brought under 42 U.S. Code section 1983. Section 1983 permits individuals to file a federal lawsuit against any person who violates the individual’s constitutional or statutory rights while acting “under the color of law.” Governmental officials may be held liable for damages under section 1983 based upon actions taken both within and outside of their official capacities. Section 1983 claims also are subject to some immunities recognized by federal law; however, the federal immunities are more limited than those under state law.

In short, (a) to the extent that there is no immunity, a trustee can be liable for damages caused by his or her acts and omissions as a trustee, and (b) a district also is liable for the acts and omissions of its trustees to the same extent as its employees.
A district trustee generally may require the district to defend the trustee on claims and lawsuits arising out of an act or omission occurring within the scope of the trustee’s service on the board, and to indemnify the trustee for judgments and settlements on those claims. However, the district may not have a duty to defend and indemnify the trustee if the claim arises out of the trustee’s actual fraud, corruption, or malice, or if the trustee fails to reasonably cooperate in good faith with the district’s defense of the claim or lawsuit. These principles enable trustees to discharge their duties in good faith without the concern that they might personally be forced to finance the defense of and pay judgments or settlements on claims arising out of their official duties.

There are special rules concerning liability for making or approving illegal or unauthorized expenditures. A trustee may be held personally liable for approving an expenditure of public funds when the expenditure is not authorized by law. However, if the trustee exercises due care in making an expenditure of public funds that is later deemed to be unauthorized, he or she generally will not be held personally liable for the amount of the expenditure. In order to determine whether or not a trustee exercised the requisite due care in making an unauthorized expenditure of public funds, the courts will consider the following factors: (a) whether the impropriety of the expenditure was reasonably obvious at the time of expenditure; (b) whether the trustee was somehow alerted to the possible impropriety of the expenditure before it was approved; and (c) whether the trustee relied on legal advice or an existing law in approving the expenditure.

Chapter III

Functions of Boards of Trustees

Introduction
Boards of trustees of mosquito abatement and vector control districts are empowered to undertake and carry out a vast number of duties under Health and Safety Code Sections 2040-2093. Establishing district administration and procedural guidelines is important to separate the functions of trustees from those of management. Decisions regarding policy and oversight of the finances, operation and administration of districts are the primary responsibility of boards of trustees. District staff is primarily responsible for the implementation of adopted board policy and budget and the day-to-day service delivery. In districts with a manager, generally all board direction should be provided to and through the manager and the trustees should avoid dealing directly with subordinate employees.

The primary functions of the board of trustees are the establishment of policies and guidelines for the administration and operation of the district, budget preparation, financial monitoring, strategic planning, and manager oversight and evaluation. The board employs the manager and delegates authority to the manager to execute the adopted policies and guidelines on a daily basis. The manager must communicate with the board and provide the information necessary to make intelligent decisions regarding such matters. Once policies are set, trustees must, both individually and collectively, recognize and respect the separation of the functions of the executor (manager) and the policy makers (board).
Trustee Communication
Policy development and strategic planning can be achieved by utilizing trustee committees, in conjunction with the manager. Committees can be formed to address such items as budget and salary negotiations, finance, policy, future planning, capital improvements, and legislation, as well as other matters. These committees meet, confer, and recommend to the board the necessary action. Note that standing committees are subject to the Brown Act. The manager, in consultation with the board, then works with his or her staff to properly implement and apply the adopted resolutions, guidelines and policies.

Board Policies
A board of trustees should consider adopting appropriate policies and guidelines to govern the administration and operation of the board and district. Such policies and guidelines should include the following: board rules of proceedings; employee or personnel manual and policies; rules for the administration of employer-employee relations and collective bargaining; employee and workplace safety policies; investment policy; warrant/check approval policy; credit card use policy; contract and expense authorization policy; policy and procedures for the purchase of supplies and equipment; local conflict of interest code; expense reimbursement policy; CEQA environmental review guidelines; claims presentation policy for Government Claims Act-exempt claims; records retention and destruction policy; and, other district-appropriate policies to guide a district and establish board member responsibilities.

Chapter IV
District Finance

Required Practice and County Coordination
The principal statutes regarding management of a district’s finances are contained in Health and Safety Code Sections 2070-2085. District finances are controlled at the local level and must conform to the accounting and budgeting procedures for special districts contained in Subchapters 3 (commencing with Section 1031.1) and 4 (commencing with Section 1121) of California Code of Regulations Title 2, Division 2, Chapter 2. The county treasury is usually the depository for district funds collected. The county treasurer invests the cash under policy guidelines established by the county. Credit risk information regarding the cash held by the county treasurer should be included in an annual report by the county. However, for a district that has total annual revenues greater than $250,000, the district board may choose to withdraw its funds from the control of the county treasurer and establish its own treasurer, bank accounts, and accounting, audit and warrant/check procedures. (Health & Safety Code § 2077.)

Districts may also be tied to other county offices and the State treasurer through participation in retirement plans, insurance, and various benefit programs.

The district board should require the treasurer to provide monthly or quarterly written reports showing the receipts, disbursements and balances in the district accounts and a report on the status of the district’s investments.
Significant Accounting Policies

Government Accounting Standards Board [GASB], is an independent organization which establishes and improves standards of accounting and financial reporting for state and local governments. In 2004, GASB statement 45 was issued which applies to accounting and financial reporting for Postemployment Benefits Other Than Pensions [OPEB]. Districts may provide employee benefits, as part of a total compensations package, to attract and retain the services of qualified employees. OPEB includes postemployment healthcare, as well as other forms of postemployment benefits (for example, life insurance) when provided separately from a pension plan. This Statement establishes standards for the measurement, recognition, and display of OPEB expense/expenditures and related liabilities (assets), note disclosures, and, if applicable, required supplementary information (RSI) in the financial reports of state and local governmental employers.

GASB statement 54 was issued in 2009. GASB 54’s objective is to enhance the usefulness of fund balance information by providing clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions. This Statement establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government is bound to observe constraints imposed upon the use of the resources reported in governmental funds.

The initial distinction that is made in reporting fund balance information is identifying amounts that are considered nonspendable, such as fund balance associated with inventories. This Statement also provides for additional classification as restricted, committed, assigned, and unassigned based on the relative strength of the constraints that control how specific amounts can be spent.

The restricted fund balance category includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation. The committed fund balance classification includes amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-making authority. Amounts in the assigned fund balance classification are intended to be used by the government for specific purposes but do not meet the criteria to be classified as restricted or committed. In governmental funds other than the general fund, assigned fund balance represents the remaining amount that is not restricted or committed. Unassigned fund balance is the residual classification for the government’s general fund and includes all spendable amounts not contained in the other classifications. In other funds, the unassigned classification should be used only to report a deficit balance resulting from overspending for specific purposes for which amounts had been restricted, committed, or assigned. Governments are required to disclose information about the processes through which constraints are imposed on amounts in the committed and assigned classifications.

Governments also are required to classify and report amounts in the appropriate fund balance classifications by applying their accounting policies that determine whether restricted, committed, assigned, and unassigned amounts are considered to have been spent. Disclosure of the policies in the notes to the financial statements is required.

This Statement also provides guidance for classifying stabilization amounts on the face of the balance sheet and requires disclosure of certain information about stabilization arrangements in the notes to the financial statements.
The definitions of the general fund, special revenue fund type, capital projects fund type, debt service fund type, and permanent fund type are clarified by the provisions in this Statement. Interpretations of certain terms within the definition of the special revenue fund type have been provided and, for some governments, those interpretations may affect the activities they choose to report in those funds. The capital projects fund type definition also was clarified for better alignment with the needs of preparers and users. Definitions of other governmental fund types also have been modified for clarity and consistency.

Trustee’s districts are subject to these standards, for which Trustees should be aware and understand the potential financial implications to their district, or not.

For a summary of GASB 45, see APPENDIX 4
For a summary of GASB 54, see APPENDIX 5

Additional Financial Considerations
For districts with finances maintained through the county treasurer, the districts are an integral part of their counties and their financial statements are included as a component unit of the general-purpose financial statements prepared by each county. The counties perform certain administrative services such as maintenance of accounting records.

The accounts of districts are organized on the basis of funds and account groups, each of which is considered separate for accounting purposes. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues and expenditures as appropriate. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which the activities are controlled.

Districts use the modified accrual basis of accounting; consequently, revenue is recognized when it becomes measurable and available and expenditures are generally recognized when the related liability is incurred.

Standard classifications and numerical systems for revenue and disbursements were adopted for all counties of the State. The filing of annual financial reports to the State Controller is mandatory.

Inventories of insecticides, herbicides and oil are valued at cost, including sales tax, on a first-in first-out basis. The shelf life of insecticides dictates this process and inventory practice.

Revenue
Districts obtain operational revenues through taxes, assessments, service charges, or a combination of such revenues. If tax supported, the auditor of each county in which a district is located shall allocate to the district its share of property tax revenue pursuant to the Revenue and Taxation Code. This is based on the State Legislature determining the method of distribution of receipts from a 1% property tax levy among counties, cities, school districts and other special districts including mosquito abatement districts.
Assessments and service charges are collected in a manner similar to taxes, but are credited in their entirety (except for a handling fee) to the district. Some districts may also receive State funds assistance through the county board of supervisors. In general, 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.

In 1996, California voters approved Proposition 218, which amended the California Constitution by adding new substantive and procedural requirements for the adoption of taxes, assessments, and property-related fees and charges. In 2010 California voters approved Proposition 26, which further restricts the ability of state and local governments to raise revenues to fund government services, facilities, and programs, by reclassifying certain fees and charges as taxes.

Both propositions directly impact the ability of mosquito and vector control districts to raise revenues. Because of the detailed requirements and limitations in these propositions, trustees should seek legal advice prior to adopting or increasing any revenue source.

**Budgeting Process**

On or before August 1 of each year, the board of trustees must adopt a final budget, which shall conform to the accounting and budgeting procedures for special districts contained in Subchapter 3 of the California Code of Regulations Title 2, Division 2, Chapter. This process typically will take several months and it is wise to start the process in spring even though the impact of the State budget process and results will not be available until later.

The board of trustees may divide the annual budget into specific categories. The board of trustees shall forward a copy of the final budget to the auditor of each county in which the district is located. Budgets are yearly expenditure guidelines for the future balanced against an estimated revenue schedule. Budget formation is a continuous process. The data and evaluation recorded in previous years provide greater reliability to the budget estimates for succeeding years. Budget formation is usually a review process for the board of trustees as staff members prepare the specific budget items. Mosquito and vector control programs must cope with wide biological and ecological variances. Control programs thus exhibit significant differences in major categories, such as equipment, supplies, and wages.

**Budgeted Reserves**

Health and Safety Code Section 2070 provides for an unallocated general reserve. This option was provided to meet district expenditure needs in the first half of the fiscal year prior to the collection and distribution of revenues. Without this reserve, districts may have to borrow money, with interest charges, for operations during the months of July through December. Districts may set their own limit for a general reserve.

A district may also establish restricted reserves for such things as contingencies, capital and asset preservation and public health emergencies. These funds, if not used, are not lost at the end of the fiscal year, but are carried over into the next fiscal year thus aiding in offsetting budget increases. The Health and Safety Code allows districts to set their own limits for these reserves.
Internal Control Structure
management’s responsibility for the internal control structure and the objectives of, and the inherent limitations in, the internal control structure are adapted from the statements on auditing standards of the american institute of certified public accountants.

management is responsible for establishing and maintaining an internal control structure. in fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of the internal control structure policies and procedures.

the objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management’s authorization and recorded properly to permit the preparation of general purposes financial statements in accordance with generally accepted accounting principles.

trustees must be cautious because of inherent limitations in any internal control structure [ics]. errors or irregularities may occur and may not be detected. trustees should be cautious in projecting current ics to future periods, as current procedures may not be sufficient in future times to ensure proper trustee fiscal oversight. ics systems should be periodically reevaluated relative to current relevance.

audits
trustees are responsible to not only review expenditures for the district and set policies relating to those expenditures, but also need to assure that proper audits of the district’s accounting books are properly maintained and accurate.  this is usually accomplished through an independent audit of the records, which must be done annually unless the district board and county board of supervisors have approved a different audit or financial review arrangement pursuant to government code section 26909.  audit reports should be presented annually at a board of trustee meeting.  it is also good policy to consider changing auditing companies every several years, but recognizing it is also important to have an auditor develop a thorough understanding of the district’s operation.  a reasonable guideline is to evaluate changing auditors every five years.

chapter v

community and intergovernmental relations

meeting community interest
as a trustee on the board of your district, you have committed to serve the best interests of the community at-large (that being everyone residing or visiting anywhere within the district boundaries), provide services that are essential to the community, and represent residents of the entire district. you have a number of responsibilities as a trustee, which include setting district policies, direction, and establishing strategic goals and objectives. this requires a close working relationship with many local, state, and federal agencies and involvement with professional associations.
The evolving complexity of governmental agencies with their increased regulatory powers may influence district operations. At the same time, changes in public sensitivity to environmental protection, property taxation, and legalized invasions upon residents’ personal rights, leads to additional responsibilities of trustee discussion and action, and higher levels of community involvement and public relations.

There are many agencies and interests with whom districts should cooperate in order to fulfill their responsibilities to the public. Although management is principally involved in such relations, trustees can frequently be very effective in contacts with cities or areas that they represent. In this capacity, a trustee operates within guidelines established by the district’s Board of Trustees, and in conjunction or consultation with the manager.

There exists a continuous need for districts to provide public awareness of the district’s mission and the benefits to the community residents. Although an agency may be providing excellent essential services, the lack of public awareness may create an under appreciation of the district’s successful public health mission. Trustees may play a central role is publically describing the mission, processes, and the environmental sensitivities which result in the district successfully satisfying its public health role.

First, and foremost, a district should have a good working relationship with the other mosquito and vector control districts in its region. Neighboring districts should always work together when it is appropriate to control mosquito or other vector problems, as the vectors know no borders.

Mosquito and Vector Control Association of California (MVCAC)  www.mvcac.org
The organization that became the Mosquito and Vector Control Association of California was founded in 1930. It first met in Berkeley, California for the purposes of discussion and information exchange among district representatives, university professors, and others involved in this field. Agencies and individuals devoted to mosquito and vector control make up the membership of MVCAC. These include independent special districts, vector control divisions of cities and counties, state health agencies, universities, and others. MVCAC represents the interests of 82 mosquito and vector control districts in the state. All mosquito and vector control districts should be members of MVCAC.

The MVCAC provides many services to its members, including coordination of the statewide surveillance program to detect West Nile virus and other mosquito-borne diseases and NPDES permit monitoring. The MVCAC has active legislative and public education/media programs. MVCAC also produces outstanding publications and educational pamphlets for the members to use in their programs.

To encourage and facilitate communication and cooperation among its members, the MVCAC staff coordinates an annual conference and interim membership and committee meetings. Communication also includes a web site, quarterly newsletters, and biweekly email updates. Trustees may receive all of these communications through their district’s manager. In addition, district managers, trustees and district professional employees should attend MVCAC meetings to stay current on issues affecting their agencies. Trustees, managers and district professional staff can also contribute by helping to plan events, testify at hearings and offer advice or assistance, when appropriate. Without this volunteer work, MVCAC cannot be as effective as it has been in the past. To provide contact
information and other helpful references, the MVCAC publishes an annual yearbook. The yearbook provides information relating to MVCAC Bylaws, membership categories, standing committees, and the Trustee Council.

The Trustee Council is an MVCAC body consisting of trustees affiliated with the corporate member districts, and representing each of the five regions. This council promotes cooperation and interaction among those persons and entities concerned with mosquito and vector control. The council also provides advice and suggests action related to policy, fiscal, legislative and legal matters relating to vector control. The council is organized with a president, vice-president, secretary, and two other regional trustee representatives.

**American Mosquito Control Association (AMCA)  [www.mosquito.org](http://www.mosquito.org)**

The American Mosquito Control Association is an international association comprised of members with a common interest in promoting mosquito control and mosquito research. Their mission is to provide leadership, information, and education leading to the enhancement of health and quality of life through the suppression of mosquitoes and other vector-transmitted diseases, and the reduction of annoyance levels caused by mosquitoes and other vectors and pests of public health importance. Mosquito and vector control districts are advised to become sustaining members of the AMCA. The benefits are significant in areas of federal legislation and regulation, publications, public education, training, and science. In addition, the AMCA annual conference offers an excellent program and opportunity for district trustees and professional staff to receive timely information on topics of interest with mosquito control.

**California Air Resources Board  [www.arb.ca.gov](http://www.arb.ca.gov)**

The mission of the California Air Resources Board is to promote and protect public health, welfare and ecological resources through the effective and efficient reduction of air pollutants while recognizing and considering the effects on the economy of the state.

**California Department of Fish and Game (DFG)  [www.dfg.ca.gov](http://www.dfg.ca.gov)**

The Department of Fish and Game manages over 850,000 acres of wildlife habitat. The State acquired these wildlife areas to protect and enhance habitat for wildlife species, and to provide for wildlife associated public use. These lands provide habitat for a great variety of plant and animal species, including many listed as threatened or endangered.

**California Department of Public Health (CDPH)  [www.cdph.ca.gov](http://www.cdph.ca.gov)**

The Vector-Borne Disease Section of the State Department of Public Health works closely with mosquito and vector control districts, agricultural commissioners, the Department of Pesticide Regulations and the state universities regarding the protection of the public health and pesticide use in public health vector control.

Memoranda of understanding and cooperative agreements between mosquito and vector control agencies and other state and federal agencies have aided in compliance with strict state and federal regulations regarding the use of pesticides while protecting the judicial use of pesticides to control disease vectors and pests. District trustees and managerial staff should be familiar with agreements such as the cooperative agreement between CDPH and each local vector control agency. Further, they should encourage lawmakers and regulators to recognize the importance of maintaining a diverse selection of public health pesticides.
California Department of Pesticide Regulation  www.cdpr.ca.gov
The mission of the Department of Pesticide Regulation is to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management. All aspects of district pesticide selection and use is regulated by this department and through the County Agricultural Commissioner.

The department’s functional operation plan for 2010-11 is found at: www.cdpr.ca.gov/docs/dept/planning/current_op.pdf

California Special District Association (CSDA)  www.csda.net
The California Special District Association represents special districts in California. There are many types of special districts providing services to Californians such as water, fire protection, utilities, cemetery, municipal services, mosquito and vector control and others. The CSDA provides services such as legislative advocacy, information, representation on governmental committees, education programs and management resources. The CSDA promotes, through media and public education campaigns, special districts as one of the best types of government for local services. The CSDA annual conference can be a source of training and information to mosquito and vector control agency staff and trustees.

The CSDA Special District Governance Academy is specifically designed for special district governing board members. The areas covered include: fundamentals of governance, strategic planning, community leadership, finance, human resources and the governing board’s role in the operation of the district.

California Water Resources Control Board (and Regional Boards)  www.swrcb.ca.gov
The mission of the water board and the regional water quality control boards is to preserve, enhance, and restore the quality of California’s water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations. As part of their effort to protect the waters of the US, they issue permits to districts relating to pesticide use.

Joint Powers Agencies
In 1979, several member agencies of the MVCAC formed the Vector Control Joint Powers Agency (VCJPA) to provide for self-funded insurance programs. The VCJPA currently offers insurance programs for worker’s compensation, auto-physical damage, property, business travel accident, group fidelity, underground storage tanks, liability and employment risk management.

Districts should, of course, investigate all of the options available to them when making decisions concerning insurance coverage. Other self-insurance programs are available and include programs through the CSDA, the Special District Risk Management Authority (SDRMA) and the Central California Vector Control Joint Powers Agency (CCVCJPA).

Local Agency Formation Commission (LAFCO)
The Local Agency Formation Commission is an independent agency created by the State Legislature in 1963 to provide for growth and development planning, especially as it pertains to local service delivery, within each county. Mosquito and vector control agencies must go through their local LAFCO on any issues involving changes in their boundaries and/or the exercise of new powers.
United States Fish and Wildlife Service (USFWS)  www.fws.gov
Mosquito management on national wildlife refuges is a complex and often controversial issue for mosquito and vector control agencies, particularly when refuges are located near urban areas or communities where tourism is part of the local economy. Mosquito control is not automatically included as part of the wildlife management activities conducted on refuges. Therefore, it is imperative that district staff actively communicates and work with refuge management to ensure that public health concerns are addressed and that an effective mosquito control program becomes a part of the refuge management plan.

University of California
The University of California has a staff of scientists that teach and conduct research in all aspects of vector biology and control of vector borne diseases. This research provides a direct benefit to vector control districts and their programs. They also work closely with CDPH and the MVCAC in the surveillance of mosquito borne viruses.

Mosquito and vector control district staff should keep up to date on the information resulting from the research conducted by the UC. The University of California has representatives who work closely with the MVCAC and information is disseminated through the MVCAC to its members. In addition, districts may offer assistance to the UC researchers in order to further the scientific knowledge needed for effective, modern mosquito control programs.
Chapter VI

Personnel Relations

In general, personnel management and relations are the responsibility of the manager of the district. The board does not usually become involved with the hiring, firing, or management of personnel other than the manager. It typically is the board of trustees’ responsibility to hire and direct the manager and all other personnel are under the direction of the manager.

Personnel relations considered here are those for which the board of trustees has responsibility as prescribed by statute or adopted procedures for administrative purposes. These involve coping with employee associations or unions in the fields of wage and benefit negotiations, grievance hearings, and safety rules and provisions.

Supervision of the District Manager

The most essential function of the district’s board of trustees is the supervision of the District Manager. This includes all aspects of management from initial hiring, supervision, evaluation, and, if necessary, discipline. Hiring, supervision, and if necessary termination, is accomplished while complying with State and Federal employment legislation, district policy and procedures and in compliance with the district manager’s contract.

Manager evaluation is an ongoing effort by the board of trustees, and should be an accomplished annually, or as circumstances and/or policy dictates. Some boards, particularly those with many members, will delegate representatives from the board to review the District Managers performance and work with the manager on goal setting for the upcoming year. Since evaluation is a personnel matter, the meetings to review the manager may be held in closed session of the board of trustees.

Whenever disciplinary action is contemplated for either staff or the manager, the board of trustees should contact its legal counsel for guidance relating to necessary and proper procedures consistent with its adopted policy manual and contracts and applicable law.

Employee Representation

Employees of special districts are considered to be governmental workers. As such, they are covered by employee collective bargaining statutes at both the state and federal levels.

Many districts have employee associations or unions that represent the employees in labor negotiations. The board of trustees is the legal entity within the district responsible for negotiations and agreements with those groups. Therefore, they have the responsibility to meet the provisions of the applicable statutes, utilizing the guidance and assistance of district management and legal counsel.

In the event of an employee grievance, which cannot be resolved by the district’s management, the board of trustees is responsible for conducting grievance hearing, attempting to resolve the problem. District legal counsel should provide guidance, preventing either the process or the decision from violating current statutes and district policy and procedures.
Safety Requirements
Employee safety programs are the responsibility of a district’s board and management. Management staff implements the programs. Workplace safety is regulated by the federal and state Occupational Safety and Health Administration (OSHA). In general, these regulations apply to all employees of mosquito abatement and vector control districts. Severe penalties can be assessed against both the district and its management if serious violations exist. Worker safety must be a prime concern as most district personnel are exposed to potentially hazardous materials.

Current law requires each district to adopt, implement and monitor compliance with a variety of employee and workplace safety-related plans, including an illness and injury prevention plan, code of safe practices, hazard communication program, hazardous materials business plan, emergency action plan, and fire prevention plan. Because worker safety laws are changed frequently, district boards and management should be familiar with the current legal requirements and provide oversight in order to ensure that the district’s programs are current and properly implemented.
Appendix

Click on the subjects and articles below for up to date information.

Appendix 1

• Summary of Napa County Mosquitoes
• Aedes Mosquitoes of California
• Anopheles Mosquitoes of California
• Culex Mosquitoes of California
• Culiseta Mosquitoes of California
• Miscellaneous Mosquitoes of California
• Mosquitoes Introduced to California
• Other Arthropod and Mammal Vectored Diseases

Appendix 2

Health and Safety Code

• Article 2 Formation [2010. - 2014.]
• Article 3 Boards of Trustees and Officers [2020. - 2030.]
• Article 4 Powers [2040. - 2055.]
• Article 5 Abatement [2060. - 2067.]
• Article 6 Finances [2070. - 2079.]
• Article 7 Alternative Revenues [2080. - 2085.]
• Article 8 Zones [2090. - 2093.]

• Article 1 Definitions and General Provisions [2800. - 2805.]
• Article 2 Formation [2822. - 2835.]
• Article 3 Administration [2850. - 2853.]
• Article 3.5 District Powers [2855. - 2868.]
• Article 4 Taxation [2870. - 2876.]
• Article 4.1 Standby Charges for Public Health Emergencies [2877. - 2878.]
• Article 4.5 Claims [2880. - 2880.]
• Article 5 Annexation [2900. - 2901.]
• Article 5A Consolidation [2910. - 2910.]

Appendix 3

Health and Safety Code Sections

• Section 101275 - 101285
• Section 106925
• Section 116100 - 116108
• Section 116110 - 116112
• Section 116120
• Section 116125 - 116170
Appendix

Appendix 3 continued

Health and Safety Code Sections

- Section 116175- 116183
- Section 116185 - 116225
- Section 106925
- Section 116110 - 116112
- Section 116175 - 116183
- Section 116185 - 116225
- Section 116250

Appendix 4

- Summary of Statement No. 45: Accounting and Financial Reporting by Employers for Postemployment Benefits Other

Appendix 5

- Summary of Statement No. 54: Fund Balance Reporting and Governmental Fund Type Definitions
## Policy Statement

A. **Purpose.** The purpose of this policy is to prescribe the manner in which District Trustees may be reimbursed for actual and necessary expenses related to official business of the District as well as for attendance at professional, educational or vocational meetings (including actual and necessary traveling and incidental expenses related to such educational or vocational meetings).

B. **Scope.** This policy applies to Trustees and the provisions regarding expense reimbursement are intended to result in no personal gain or loss to Trustees.

C. **Implementation and Responsibility.** The Board shall review and approve any reimbursement request of a Trustee.

### Travel and Expense Policy

**Section 1.0. Trustees’ Payment for Expenses While on Official Business.** As authorized by Health and Safety Code section 2030 and District Resolution No. 2010-11 (“Resolution”), (“Resolution”), in lieu of reimbursing Trustees for itemized actual and necessary expenses incurred while on official business, each Trustee shall receive a payment in the amount of $100 per month for costs and expenses incurred while on official business.

1.1 For purposes of this section, Official Trustee business shall include the following:

- A. Preparing for and attending Regular Board meetings;
- B. Preparing for and attending Special Board meetings;
- C. Preparing for and attending advisory or committee meetings;
- D. Preparing for and attending negotiation sessions;
- E. Preparing for and attending depositions;
- F. Preparing for and attending meetings with District consultants, engineers, or other professionals for the purpose of conducting District business or potential business; and/or
G. Participating in other official business related to the Trustee’s service on the Board that is not subject to the reimbursement provisions in Section 2.0 below but is otherwise approved by the Board.

1.2 On the basis of the findings made in the Resolution adopting this Policy, this $100 payment is deemed a reasonable estimate of actual and necessary expenses incurred while on official business and this Section 1.0 shall be considered the written policy for such expenses as required by Government Code section 53232.2(b).

1.3 Trustees shall not be entitled to receive monthly $100 payment for costs and expenses if the Trustee does not attend a regularly scheduled Board meeting, unless an “excused absence” is approved by the Board. If regularly scheduled Board meeting is cancelled, then Trustees shall be entitled to receive monthly $100 payment.

Section 2.0 Trustee Attendance at Professional, Educational and Vocational Meetings. As authorized by Health and Safety Code section 2051, except for expenses associated with events listed as official business above in Section I, the District shall pay for or reimburse Trustees for attendance at professional, educational, or vocational meetings, and for Trustees’ actual and necessary traveling and incidental expenses related to attendance at such meetings as provided by this section.

2.1 Attendance; Failure to Attend. Trustees are encouraged to attend professional, educational and vocational meetings when the purpose of such activities is to improve District operations. Attendance at such meetings is considered a part of an official’s performance of their official duties for the District. Therefore, there is no limit to the number of Trustees attending a particular professional, educational and vocational meeting when it is apparent that their attendance is beneficial to the District. In connection with professional, educational and vocational meetings and conferences for which the District has prepaid for a Trustee’s attendance, the Trustee shall attend such meeting or conference. The District will attempt to keep the Trustee informed via e-mail/phone about upcoming travel schedule and requirements. In the event the Trustee is not able to attend, the Trustee shall immediately notify the District. If the District cannot obtain a refund of fees paid, unless the Trustee’s failure to notify the District arises beyond the control of the Trustee, the District may bill the Trustee and notify the appointing agency on the second occurrence within two year period.

2.1.1. Any and all expenses that do not fall within the adopted reimbursement policy or the IRS reimbursable rates are required to be approved by the Board in a public meeting prior to the expense(s) being incurred. Expenses that do not adhere to the adopted reimbursement policy or the IRS reimbursable rates, and that do not receive prior approval from the Board prior to the expense being incurred, shall not be eligible for reimbursement.

2.1.2 Trustees shall be reimbursed for the actual cost of tuition, conference fees, registration fees (or similar costs) and necessary travel, lodging and meals required as a result of attending professional, educational and vocational meetings. All reimbursement of actual and necessary expenses shall be pursuant to this Policy.
2.1.3 The General Manager or his or her designee shall make arrangements for Trustees’ attendance at professional, educational and vocational meetings and for reimbursement for such expenses pursuant to this Policy after the Board of Trustees’ approval in an open and public Board meeting.

2.1.4 If lodging is necessary for attendance at a meeting, such lodging costs shall not exceed the maximum group rate published for the subject meeting. If the published group rate is unavailable, Trustees shall be reimbursed for comparable lodging at government or IRS rates. There is no objection to a spouse and/or other family member(s) accompanying a person subject to this policy, if their presence does not detract from the performance of District duties. The attendance at the meetings and conferences by such family members of District Trustees is to be considered the sole expense of the individual Trustee, and all differences in costs brought about by the attendance and/or accompanying travel of a family member shall not be borne, paid or reimbursed by the District.

2.1.5 Transportation expenses shall be governed by Section 3.0.

2.1.6 Meal expenses shall be governed by Section 4.0.

2.1.7 The District shall provide expense reimbursement report forms to Trustees who incur reimbursable expenses for attendance at professional, educational, or vocational meetings to document that their expenses adhere to this policy. These reports and any accompanying documentation shall be submitted to the General Manager or his or her designee.

2.1.8 The General Manager or his or her designee shall review and submit all Trustees’ expense reimbursement report forms to the Finance Committee for review and consideration for approval by the Board of Trustees.

2.1.9 Receipts shall be submitted in conjunction with an expense reimbursement report forms. Expenses without receipts require a written justification.

2.1.10 Expense reimbursement report forms shall be submitted within a reasonable time, but not more than 30 days after incurring the expense. Failure to submit such forms in a timely manner may result in the expense being borne by the Trustee. All expense reimbursement report forms are subject to verification that they comply with this Policy.

2.1.11 Pursuant to state law, expense reimbursement report forms are public documents and will be included in the Board of Trustees meeting agenda packet which shall be made available for public inspection on the District’s website.

2.1.12 Trustees will be reimbursed for actual telephone and facsimile expenses incurred in connection with District business. Telephone bills shall identify which calls were made in connection with District business. For cellular calls when the Trustee has a particular number of minutes included in his or her billing plan, the Trustee should identify the percentage of calls made on public business for purposes of reimbursement.
2.1.13 Trustees will be reimbursed for internet access connection and/or usage fees while away from home, not to exceed $15.00 per day, if internet access is necessary for District-related business.

2.1.14 Business-related reading and educational materials and organizational memberships will be reimbursed.

2.2 Expense Reimbursement. Trustees (subject to prior approval of attendance by the Board at an open and public meeting) are eligible to receive reimbursements for travel, meals, and other reasonable and necessary expenses for attending professional, educational, or vocational meeting as permitted by state law and as provided above in Section 2.0. Unless otherwise provided in this Policy, reimbursement rates shall coincide with rates set by Internal Revenue Service Publication 463 or its successor publication(s).

2.2.1 Approval of Expense Report. Any deviation from this policy must be approved first by the Board of Trustees.

2.2.2 Appeal. Trustees may appeal any reimbursement denial to the Board of Trustees, which has the option of taking action on the appeal or forwarding the appeal to the Finance Committee for further review and a recommendation to the Board.

Section 3.0 Transportation Expenses. Trustees requesting reimbursement of travel expenses should attempt to travel by most reasonable means consistent with scheduling needs. In the event that a more expensive transportation form is used, the cost borne by the District will be limited to the cost of the most reasonable and efficient transportation form unless otherwise approved by the Board. Government and group rates must be used when available.

Section 3.01 Extenuating Circumstances. In the event that an extenuating circumstance is presented, a written justification is required for extra expenses.

3.1. Automobile Travel. Transportation by car may be done with a personal vehicle, subject to the insurance requirements described in the latest resolution adopted the Vector Control Joint Powers Agency (VCJPA) regarding use of personal vehicles for district business. Net mileage will be reimbursed at the current Internal Revenue Service Rates (see www.irs.gov)\(^1\). These rates are designed to compensate for gasoline, insurance, maintenance, and other expenses associated with operating the Trustee’s personal vehicle. The Internal Revenue Service rates will not be paid for District vehicles or rental vehicles; only receipted fuel and rental expenses will be reimbursed for such usage. Mileage will not be reimbursed for portions of the trip made for non-business related matters. Reimbursement for mileage shall not include bridge and road tolls, which are separately subject to reimbursement. When the use of public air carrier transportation is approved, private automobile use to and from the airport shall be reimbursed for all allowable miles at the current Internal Revenue Service Rates or

---

commercial auto rental will be allowed if necessary and alternative personal or public transportation is unavailable or unreasonable.

3.2 **Air and Ground Travel.** Air and Ground Travel shall be subject to the following limitations.

3.2.1 **Coach Class Air Travel.** Reimbursement shall be made for coach air travel if the cost of such air travel is competitive with other passenger airlines' coach airfares.

3.2.2 **Rail Travel.** Reimbursement shall be made for coach rail travel if the cost of such rail travel is competitive with other coach rail travel fares.

3.2.3 **Taxi Service.** Charges for taxi service are reimbursable if such transportation is the most reasonable, practicable and efficient mode of transportation available under the circumstances. Portions of taxi charges that are related to excessive tips (i.e., in excess of 15%) will not be reimbursed.

3.2.4 **Shuttle Service.** Charges for shuttle service are reimbursable if such transportation is the most reasonable, practicable and efficient mode of transportation available under the circumstances.

3.2.5 **Bus Fare.** Charges for bus service are reimbursable if such transportation is the most reasonable, practicable and efficient mode of transportation available under the circumstances.

3.2.6 **Vehicle Rental.** Actual fuel charges for vehicle rental are reimbursable if such transportation is the most reasonable, practicable and efficient mode of transportation available under the circumstances. Charges for rental vehicles may be reimbursed under this provision. When determining the type of rental car to be used, consideration should be given to the economic standards set forth in this policy and the appropriate use and stewardship of District funds, including but not limited to, the cost of the rental vehicle, parking and gasoline as compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.

3.2.7 **Chartered Travel.** Use of chartered travel shall be reimbursable only if such transportation is the most reasonable, practicable and efficient mode of transportation available under the circumstances.

3.2.8 **Airport parking may be used during travel on official District business and is reimbursable with receipts.** Long-term parking must be used for travel exceeding 24 hours.

**Section 4.0 Meal Expenses.** All meals expenses, except for those included in the cost of the registration shall be reimbursed at current IRS per diem rates. Expense claims for meals including people other than the claimant shall include the following information: (1) Date incurred, (2) parties participating, and (3) purpose of the event.
Section 5.0 Prohibitions. The following prohibitions and limitations apply to Trustees with respect to reimbursement or payment of expenses. Expenses that are not otherwise listed or identified in this Policy shall require prior approval at a public meeting of the Board of Trustees.

5.1 Trustees shall not attend a professional, educational or vocational meeting for which there is an expense to the District if it occurs after they have announced their pending resignation, or if it occurs after it has been determined that the Trustee will not be re-appointed.

5.2 Personal expenses are not allowable. These may include, but are not limited to:

A. Barber and/or beauty shop charges;
B. Fines for traffic violations;
C. Private automobile repairs;
D. Expenses of any persons accompanying the person subject to this policy on the trip;
E. Personal telephone calls;
F. Purchase of personal items;
G. Fitness/Health Facilities or Massages;
H. Political or charitable contributions or events;
I. Alcohol;
J. Personal losses incurred while on District business; and/or
K. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events or other cultural events; and
L. Tours, field trips, site visits, etc. offered by the conference organizer, sponsors, etc. which are not included in the cost of registration or not approved in advance by the Board of Trustees.

Section 6.0 Reporting. Upon returning from a professional, educational or vocational meeting where expenses are reimbursed by the District, Trustees will either prepare a written report for distribution to the Board, or make a verbal report during the next regular meeting of the Board. If multiple Trustees attend, a joint report may be submitted. The Report will be placed on the Agenda of the next meeting under the Consent Calendar.
The purpose of the Trustee Purchasing Card (CAL-Card) is to make it easier for Trustees to attend professional development seminars and conferences. The Trustee Purchasing Cards are to be used ONLY for travel related expenses for attending authorized professional development seminars and conferences. The Administrative Finance Manager is the Trustee Purchasing Card Program Administrator. Use of the Trustee Purchasing Card is limited to purchases specifically related to District business and are pre-approved for a specific “not to exceed” amount for authorized travel and meeting purposes. Trustee Purchasing Cards will be allocated to individual Trustees and monthly statements will be issued to individual Trustees. Purchasing limits will be restricted to the pre-approved travel request. Use of the Trustee Purchasing Cards or personal purchases is not permitted. All expenditures will be monitored, any expenditure determined to not be District related must be reimbursed to the District within 30 days of receipt of the respective monthly statement. All Trustee Purchasing Cards will be secured in the District’s safe until needed. Any abuse of Trustee Purchasing Cards may result in loss of card privileges.

Cardholder Responsibilities

All Trustee cardholders are responsible for using the purchasing card in accordance with the District’s policies and procedures and any procurement regulations that may be applicable. It is the responsibility of each Trustee cardholder to:

- Sign the card in the signature panel.
- Maintain card security to prevent unauthorized charges against the account.
- Obtain a receipt at the point of purchase and verify it for accuracy.
- Call U.S. Bank Customer Service immediately to report lost or stolen cards.
- Notify U.S. Bank Customer Service of any billing discrepancies posted on Cardholder statement that cannot be resolved with the merchant.
- Forward and sign the reconciled statement, purchase documentation, and all associated receipts/charge slips to the Trustee Purchasing Card Program Administrator.
- Only the Trustee cardholder is authorized to use the card. It has been especially designed to prevent the cardholder from confusing it with personal credit cards.

Before any purchase is made on a Trustee Purchasing Card, the following process must be followed:

- Travel must be approved by the Board of Trustees
- Following approval, the card must be signed out

Using the purchasing card:

- Obtain a receipt at the point of purchase and verify it for accuracy.
- Return the purchasing card and receipt to the District administration office at the next Board Meeting following travel
- Sign the card back in

Statement:

- Complete the *CAL-Card Description of Transactions* form for each transaction
- Sign the statement
- A copy of the Trustee Purchasing Card statement will be placed in the Board Packet under Consent Calendar for Board approval
1. **RESTRICTED RESERVES (FUND BALANCE)**

   Restricted Fund Balance – funds held solely for the purpose of satisfying restrictions imposed by an outside source. The restricted fund balance category includes amounts that can be spent only for the specific purposes stipulated by:
   - constitution,
   - external resource providers,
   - through enabling legislation.

   The Restricted Fund Balance will include, but not limited to the following:

**RESTRICTED RESERVE FOR PUBLIC HEALTH EMERGENCY (GENERAL FUND)**

The California Health and Safety Code Section 2070 states that the Board of Trustees can divide the annual budget into categories including a restricted reserve for public health emergencies. The Restricted Reserve for Public Health Emergency allows only expenditure in the case of public health emergencies. Public Health Emergencies are defined in the CVMVCD Risk Assessment Plan that was adopted by the Board of Trustees on April 13, 2010 meeting. The Risk Assessment Plan includes necessary actions in situations of Emergency Response Planning and Epidemic Response Planning summarized below, and they will be expensed from the Restricted Reserve for Public Health Emergency.

**Emergency Response Planning** includes following actions:
- Labor needed for additional mosquito surveillance/trapping for 3 months.
- Broaden geographic coverage of mosquito testing samples testing.
- Increase the number of mosquito samples tested for no less than 35% from 1500 planned for normal season.
- Increase frequency and geographic coverage of mosquito larvae surveillance
- Increase frequency and geographic coverage of mosquito larvae control measures.
- Ten additional seasonal staff for 3 months.
- Additional products for aerial and ground larvae mosquito control for no less than 3 months.
- Additional products for aerial and ground adult mosquito control for no less then 3 months
- Stand by contract for aviation service
Epidemic Response Planning includes following actions:

- In addition to listed actions above, Epidemic Response Planning includes a contract with aviation companies that use twin turbine aircraft available for routine spray operations in a case of Public Health Emergencies response over the populated areas.
- The contract includes:
  1. A cost of a control product per acre
  2. A cost of application per acre
  3. A minimum of 130,000 acres,
  4. A minimum of three flights, not to exceed 10 flights

The Restricted Reserve for Public Health Emergency recommended minimum funding amount of 33 percent of operating revenue. The funding is based on the minimum cost to implement requirements stated in the Coachella Valley Mosquito-borne Virus Surveillance and Response Plan.

Restricted Reserve for Contingencies (General Fund): California Health and Safety Code Section 2070 states that the Board of Trustees can divide the annual budget into categories including a restricted reserve for contingencies. This reserve item is for the sole use of the District in cases of when the annual budget did not foresee a particular expenditure. Prior Board of Trustee approval is needed to use funds from the Restricted Reserve for Contingencies. The recommended maximum amount for this reserve is set at 10% of current fiscal year operating budget.

2. COMMITTED RESERVES (FUND BALANCE)

Commited Fund Balance – classification includes amounts that can be used only for the specific purposes determined by a formal action of the District’s Board of Trustees.

The Committed Fund Balance will include, but not limited to, the following:

a) OPEB Committed Fund Balance (General Fund) – Reserve for Other Post Employment Benefits - Government Accounting Standards Board Statement 45 (GASB 45) Other Post Employment Benefits (OPEB) states that government agencies which offer post employment benefits other than pensions must have an actuarial valuation performed to determine that liability. The OPEB which the District provides are retiree medical health benefits to eligible retirees through the California Public Employees' Retirement System (CalPERS) Health Program under the Public Employees Medical and Hospital Care Act (PEMHCA). To be eligible for retiree medical benefits, an employee must retire under PERS and enroll in medical benefits through the CalPERS Health Program. GASB 45 requires the OPEB liability to be reported in the government’s financial statements and recommends government employers pre-fund the liability associated with these costs. The District’s Actuarial Accrued Liability (AAL)
using the CalPERS CERBT assumption discount rate of 7.75% is $1,024,421. The same liability using an assumption discount rate of 5% is $1,892,671. District policy is to fully prefund the OPEB liability by meeting the Annual Required Contribution (ARC) $193,922 (7.75%) or $345,469 (5%). The OPEB Committed Fund Balance will maintain a balance of at least $1,024,421; the maximum balance is no more than $1,892,671. Actuarial valuation may change this number.

b) Thermal Remediation Committed Fund Balance (Thermal Remediation Fund) – The District has an obligation to maintain the Thermal facility. In FY2008-2009, the District hired an engineering firm to design a remedial action plan which included the capping of an area that was contaminated with DDT. The capping was completed Spring 2009. Part of the remedial action plan is to repair or repave the whole area of the capping every ten years. Estimated cost is $450,000; this liability is estimated to be $605,000 based on annual CPI of 3%. The Thermal Remediation Committed Fund Balance will not exceed the estimated liability of $605,000. Recommended fund balance will be no less than annual required funding to cover this liability. Funding this liability includes rental income, $32,000 annual fund transfer from Operating Budget and transfer from General Fund to cover the outstanding annual required funding.

3. ASSIGNED RESERVES (FUND BALANCE)

Assigned Fund Balance – classifications are intended to be used by the District for specific purposes but do not meet the criteria to be classified as restricted or committed.

The Assigned Fund Balance will include, but not limited to, the following:

a) Reserve for Operations (General Fund) - the District shall maintain a minimum Reserve for Operations equal to 60% (6 months) of discretionary General Fund revenues. These funds are set-aside because the District receives the majority of its funding from the property taxes and benefit assessment collected by the County of Riverside. These funds do not reach the District until January, six months into the fiscal year. This is a six month delay in receiving revenue from the beginning of the fiscal year. Therefore it is imperative that the District has an operating fund to fulfill its general operating costs. Mosquito season in the Coachella Valley lasts through the whole year, and not having reserves and due to the delay in receiving funding could inhibit the District’s ability in providing services for the benefit of the public’s health. The recommended maximum level for Reserve for Operations is equal to 75% (9 months) Operating Revenue.

b) Reserve for Replacements (General Fund) – the District will maintain a “Reserve for Replacements” for replacing District buildings and furnishings. The recommended maximum funding for this reserve item is an amount
equal to the accumulated amount of depreciation for that particular capital item.

c) **Reserve for Future Construction (General Fund)** – the Reserve for Future Construction is an assigned fund balance category for construction projects that have been identified in the District Capital Improvement Plan but have only reached the planning stage. These projects are not yet approved by the Board of Trustees but will be identified and singularly approved during the budgeting process and brought before the Board in a Public Meeting.

d) **Reserve for Emergency Reconstruction (General Fund)** - the Reserve for Emergency Reconstruction is an assigned fund balance category for reconstruction of District buildings in the case of earthquakes. The recommended level is 50% of original cost to enable the District to continue operations.

e) **Reserve for Vehicle and Large Equipment Replacements (Capital Equipment Replacement Fund)** - the District will maintain a “Reserve for Replacements” for replacing District vehicles and large equipment. The District shall maintain in each Reserve for Replacements shall be a minimum amount equal to the accumulated amount of depreciation for that particular capital item. The funds in this reserve will be used for replacement of District large equipment and vehicles. The recommended maximum funding for this reserve item is the amount equal to the original purchase cost plus CPI.

f) **Reserve for IT Equipment Replacements (Capital Equipment Replacement Fund)**- the District will maintain a “Reserve for Replacements” for replacing District IT Equipment. The District shall endeavor to maintain in each Reserve for Replacements a minimum amount equal to the accumulated amount of depreciation for that particular capital item. The funds in this reserve will be used for replacement of IT and GIS capital items. The recommended maximum funding for this reserve item is the amount equal to the original purchase cost plus CPI.

4. **UNASSIGNED FUND BALANCE**

Unassigned fund balance is the residual classification for the government’s general fund and includes all spendable amounts not contained in the other classifications.
The Board of Trustees appoint an independent CPA firm to perform an annual financial audit of the District’s finances in accordance with auditing standards generally accepted in the United States of America, the standards set forth for financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the State Controller’s Minimum Audit Requirements for California Special Districts.

The independent CPA firm is appointed for no more than five years after which the District will issue an invitation to bid. The existing auditor will not be excluded from bidding again.

A copy of the audited financials will be sent to the Riverside County Controller within 12 months of fiscal year end in accordance with Government Code 26909 (a) (2).
COACHELLA VALLEY MOSQUITO & VECTOR CONTROL DISTRICT
FINANCE POLICY

<table>
<thead>
<tr>
<th>Subject</th>
<th>Policy Number</th>
<th>Date Adopted</th>
<th>Date Revised</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Investment Policy</td>
<td>2.03</td>
<td>06/11/2013</td>
<td></td>
</tr>
</tbody>
</table>

1.0 POLICY:

It is the policy of the Coachella Valley Mosquito & Vector Control District (“District”) to invest public funds in a manner which will provide maximum security while providing sufficient liquidity to meet the daily cash flow demands of the District and an investment return conforming to all state and local statutes governing the investment of public funds.

2.0 SCOPE:

This Investment Policy applies to all funds under control of the District. These funds are accounted for as required by law and in the District’s Annual Financial Report.

3.0 INVESTMENT STANDARD:

Consistent with the requirements of Government Code section 53600.3, the District’s Board of Trustees (“Board”) and all persons authorized by the Board pursuant to this policy are deemed trustees and fiduciaries subject to the “prudent investor standard” as defined by Government Code section §53600.3. Pursuant to Government Code section 53600.3, trustees and fiduciaries shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to the general economic conditions and the anticipated needs of the District that a prudent person acting in a like capacity and familiarity with those matters would act with respect to funds of a like character and with like aims to safeguard the principal and maintain the liquidity needs of the District. Investments may be acquired on behalf of the District considering such individual investments as part of an overall strategy within the limits imposed by law and this Investment Policy. The authority of the legislative body to invest or to reinvest funds of a local agency, or to sell or exchange securities so purchased, may be delegated for a one-year period by the legislative body to a federally regulated financial institution whose normal course of business is investments, who shall thereafter assume full responsibility for those transactions until the delegation of authority is renewed, revoked, or expires, and shall make a monthly report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year.

4.0 OBJECTIVE:

The primary objectives, investing, reinvesting, purchasing, acquiring, exchanging, selling or managing District funds shall be:

4.1 Safety: Safeguarding the principal is the foremost objective of this Investment Policy. Investments of District funds shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification
is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

4.2 **Liquidity:** The District’s investment portfolio shall remain sufficiently liquid to enable the District to meet all operating requirements which might be reasonably anticipated.

4.3 **Return on Investments:** The District’s investment portfolio shall be designed with the objective of attaining a rate of return throughout budgetary and economic cycles, commensurate with the District’s investment risk constraints and the cash flow characteristics of the portfolio.

5.0 **DELEGATION OF AUTHORITY:**

5.1 Authority to manage the District’s investment program is derived from the following: California Government Code sections 53600 and 53601. The Board recognizes that the authority, duties and responsibilities for handling District funds for investment purposes are imposed upon the Board as a whole under the aforementioned Government Code sections. The Board further recognizes and acknowledges that Government Code section 53607 allows the Board as the “legislative body” of the District to delegate such authority, duties and responsibilities. For purposes of this Investment Policy, the duties and responsibilities set forth herein are hereby delegated to the District’s Administrative Finance Manager, unless delegated to a federally regulated financial institution whose regular course of business is investments.

5.2 The Board has also created and appointed the Board officer position of Treasurer. The Treasurer shall exercise special oversight responsibilities pertaining to District investments. The Board has established specific procedures that require certain approvals be obtained by the Administrative Finance Manager and the General Manager consistent with this Investment Policy.

5.3 For purposes of this Investment Policy, the “Finance Committee” means the committee of at least three board members appointed by the President of the Board to so serve, including the Treasurer who shall be the Chair of the Finance Committee. The Finance Committee shall exercise oversight responsibilities pertaining to District investments. The Board has established specific procedures that require certain approvals be obtained from the Finance Committee consistent with this Investment Policy.

5.4 Management responsibility for this Investment Policy is hereby delegated to the Administrative Finance Manager who shall have all fiduciary duties and responsibilities imposed by law under Government Code sections 53600 et. seq. and other applicable laws. The Administrative Finance Manager, subject to review and approval by the Finance Committee and the Board, shall establish written procedures for the administration and implementation of this Investment Policy. Procedures should include reference to: safekeeping, wire transfer agreements, banking service contracts and collateral/depository agreements. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this Investment Policy.
Policy and the procedures adopted by the Board. The Administrative Finance Manager shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate staff members and District officials.

5.5 The Administrative Finance Manager shall make a monthly report to the Board of all investment transactions. Such report shall be presented first to the Treasurer for review along with all documentation to support and substantiate the report.

6.0 **ETHICS AND CONFLICTS OF INTEREST:**

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper administration and implementation of this Investment Policy or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the Board President any material financial interest in financial institutions that conduct business with the District, and they shall further disclose any personal financial/investment positions that could be related to any District transaction or activity conducted or performed pursuant to this Investment Policy. Nothing contained in this section should be construed as limiting the applicability of any law pertaining to conflicts of interest.

7.0 **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS:**

7.1 Investments authorized pursuant to Government Code section 53601 or 53601.1, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Corporations Code section 25004, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a savings association or federal association (as defined by Financial Code section 5102) or from a brokerage firm designated as a primary government dealer by the Federal Reserve Bank.

7.2 All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Administrative Finance Manager with the following:

- Audited financial statements
- National Association of Security Dealers certification
- Proof of state registration
- Certification of having read and agreement to abide by the District’s investment Policy and depository contracts

7.3 The Administrative Finance Manager shall maintain a list of qualified Financial Institutions that have been approved by the Finance Committee. An annual review of the financial condition and registration of qualified Financial Institutions will be conducted by the Administrative Finance Manager and presented for review to the Finance Committee.

7.4 A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the District invests. Each Financial Institution
will normally be limited to receipt and handling of a maximum of $4,000,000 plus a 25% buffer for temporary investment opportunities).

8.0 AUTHORIZED AND SUITABLE INVESTMENTS:

The District is provided a broad spectrum of eligible investments under California Government Code Section 53600 et seq (See Appendix A). The District may choose to restrict its permitted investments to a smaller list of securities that more closely fits the District’s cash flow needs and requirements for liquidity. If a type of investment is added to California State Code 53600, it will not be added to the District’s Authorized Investment List until this policy is amended and approved by the Board of Trustees. If a type of investment permitted by the District should be removed from California State Code 53600, it will be deemed concurrently removed from the District’s Authorized Investment List, but existing holdings may be held until they mature if it is in the best interest of the District and recommended by the Finance Committee and approved by the Board of Trustees.

Credit criteria listed in this Policy refers to the credit rating of the issuing organization at the time the security is purchased. The District may from time to time be invested in a security whose rating is downgraded. In the event rating drops below the minimum allowed by this Policy, the Administrative Finance Manager will review recommend an appropriate plan of action to the Finance Committee and Board no less frequently than quarterly. If the District has an Investment Advisor, the Investment Advisor will notify the Administrative Finance Manager and recommend a plan of action. Percentage limits refer to the percentage at the time the security is purchased.

8.1 PERMITTED INVESTMENTS:

The Administrative Finance Manager shall be permitted to invest in the following financial investments:

<table>
<thead>
<tr>
<th>INVESTMENT TYPE</th>
<th>MAXIMUM SPECIFIED % OF PORTFOLIO</th>
<th>MAXIMUM MATURITY</th>
<th>MINIMUM QUALITY REQUIREMENTS</th>
<th>STATE 53600 % OF TOTAL LIMITS/ MATURITY LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Agency Investment Fund (LAIF)</td>
<td>75%</td>
<td>N/A</td>
<td>None</td>
<td>N/A / N/A</td>
</tr>
<tr>
<td>Negotiable Certificates of Deposit</td>
<td>30%</td>
<td>5 years</td>
<td>FDIC Insured or fully collateralized</td>
<td>30% / 5 years</td>
</tr>
<tr>
<td>CD Placement Service</td>
<td>30%</td>
<td>5 years</td>
<td>FDIC Insured or fully collateralized</td>
<td>30% / 5 years</td>
</tr>
<tr>
<td>State Obligations—CA and Others</td>
<td>30%</td>
<td>5 years</td>
<td>AA</td>
<td>N/A / N/A</td>
</tr>
<tr>
<td>CA Local Agency Obligations</td>
<td>30%</td>
<td>5 years</td>
<td>AAA</td>
<td>N/A / N/A</td>
</tr>
</tbody>
</table>
One of the purposes of this Investment Policy is to define what investments are permitted. If a type of security is not specifically authorized by this policy, it is not a permitted investment.

### 8.2 Limitations on Transfers

All transfers to or from the District’s Investment Accounts as provided by this Investment Policy may not exceed a total of $300,000 (Three Hundred Thousand Dollars) per month and must be approved in advance by the General Manager and by the Treasurer. If the Treasurer is unavailable, any other Board member’s approval may be obtained instead. Transfers between $300,001 (Three Hundred Thousand and One Dollar) and $500,000 (Five Hundred Thousand Dollars) in any month may only be made with the prior approval of the Finance Committee, and transactions in excess of $500,000 (Five Hundred Thousand Dollars) in any month will require prior approval of the Board. In construing this paragraph, the limitations herein shall be considered cumulative, and not per transaction.

### 9.0 Investment Pools:

With the exception of the investment pool authorized by Government Code section 16429.1 et. seq. (Local Agency Investment Fund) and Government Code Section §53601.8, no District funds shall be invested in any investment pool.

### 10.0 Collateralization:

Collateralization will be required on two types of investments: certificates of deposits over $250,000 and repurchase agreements.
Collateral will always be held by an independent third party with whom the District has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the Administrative Finance Manager and retained.

The right of collateral substitution is granted subject to review and approval by the Administrative Finance Manager and Treasurer or the Finance Committee.

11.0 SAFEKEEPING AND CUSTODY:

All security transactions, including collateral for repurchase agreements, entered into by the District shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by a third party custodian designated by the Administrative Finance Manager and evidenced by safekeeping receipts.

12.0 DIVERSIFICATION:

The District will diversify its investments by security type and institution. With the exception of U.S. Treasury securities and authorized pools, no more than 75% of the District’s excess funds (all money except operating funds with the County of Riverside, designated commercial bank and General Reserve) will be invested in a single security type or with a single financial institution including LAIF.

13.0 MAXIMUM MATURITIES:

To the extent possible, the District shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the District shall not directly invest in securities maturing more than two (2) years from the date of purchase. However, the District may collateralize its repurchase agreements using longer-dated investments not to exceed five (5) years to maturity.

Reserve funds may not be invested in securities exceeding five (5) years.

14.0 INTERNAL CONTROL:

The Treasurer shall establish an annual process of independent review by an external auditor. This review will provide internal control by assuring compliance with this Investment Policy and all other applicable policies and procedures. This will be accomplished by requesting the current independent auditor to mention compliance assurance in the engagement letter and to follow through with reporting the findings in the annual audit.

15.0 PERFORMANCE STANDARDS:

The investment portfolio shall be designed with the objectives of (1) safety, (2) liquidity and, (3) investment return through budgetary and economic cycles and the constraints of cash flow needs.
15.1 Market Yield (Benchmark): The District’s investment strategy is passive. Given this strategy, the basis used by the Administrative Finance Manager to determine whether market yields are being achieved shall be Merrill Lynch 1-3 Year Government Index.

16.0 REPORTING:

16.1 The Administrative Finance Manager shall make a monthly report of investment transactions to the Board of Trustees,

16.2 The Administrative Finance Manager shall also provide to the Finance Committee at the end of each month a report that provides a clear picture of the status of the current investment portfolio. The monthly management report shall include all information required by Government Code § section 53646 and comments on the fixed income markets and economic conditions, discussions regarding restrictions on percentage of investments by categories, possible changes in the portfolio structure going forward and thoughts on investment strategies.

Schedules for the monthly report should include the following:

- A listing of individual securities held at the end of the reporting period by authorized investment category which identifies the issuer of each security
- Average life and final maturity of all investments listed
- Coupon, discount or earning rate
- Dollar value, Par value, Amortized Book Value and Market Value
- Percentage of the Portfolio represented by each investment category
- A statement denoting the ability to meet District expenditure requirement for the next six months
- Report required to be submitted within 30 days of month end

17.0 INVESTMENT POLICY ADOPTION:

The District’s Investment Policy shall be annually reviewed and adopted by resolution of the Board. The policy shall be reviewed annually by the Finance Committee prior to submission to the Board.
COACHELLA VALLEY MOSQUITO & VECTOR CONTROL DISTRICT

INVESTMENT PROCEDURE CONTROLS

1.0 INTERNAL CONTROLS

Internal controls for warrants and investments shall be established and reviewed on a semi-annual basis. The controls are designed to prevent losses of public funds arising from fraud, error, misrepresentations of third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the District.

The most important controls are:

- Separation of duties;
- Separation of transaction authority from accounting and bookkeeping;
- Custodial safekeeping when appropriate;
- Delegation of authority;
- Investment dollar limits;
- Written confirmation of telephone transactions;
- Minimizing the number of authorized investment officials;
- Documentation of transactions; and
- Annual review of controls by the District Auditor.

2.0 AUTHORIZED ACTIVITIES

1.1 The Administrative Finance Manager, subject to written approval by the General Manager and prior approval of the Treasurer or the Treasurer’s designee is the only individual authorized to transfer invested District funds (within the limits stated in Section 8.1 and elsewhere in the Investment Policy). Only in the absence of the Administrative Finance Manager can the General Manager transfer funds with prior approval of the Treasurer. The written approval authorizing the transaction will be submitted to the financial institution.

1.2 Each month, the Administrative Finance Manager shall provide the General Manager with a written report of all investments coming due in the following month. The Administrative Finance Manager and General Manager shall propose alternatives to reinvesting or depositing such investments and submit such proposals, along with the written report to the Treasurer for review and approval.

1.3 The Administrative Finance Manager shall continue to manage the general ledger accounts, generate all warrants and determine the funds necessary to cover said warrants.

1.4 A monthly investment report shall be prepared and presented to the Board of Trustees for approval.

1.5 Written confirmations will be obtained, and maintained on file, for all investment transactions.
1.6 Where appropriate, all financial securities shall be held by a third party custodial agency for safekeeping under contract.

1.7 The District will receive an independent review of all investment activities from a professional auditing firm on at least an annual basis.

1.8 The District shall maintain Fidelity Insurance coverage, up to $2,000,000 for unintentional, and $2,000,000 for intentional, errors of District officials. The Administrative Finance Manager, the Treasurer and General Manager shall be specifically covered.

3.0 ADMINISTRATIVE FINANCE MANAGER’S DELEGATED DUTIES

Pursuant to §5.4 of the District’s Investment Policy, in addition to all fiduciary or other responsibilities imposed by the provisions of Government Code section § 53600 et. seq. upon the financial officer of a local agency, the following specific responsibilities are delegated to the Administrative Finance Manager who shall at all times be accountable to the Treasurer, the Finance Committee and the Board in the performance of such duties

3.1 Invest or reinvest and submit monthly reports of all such transactions to the Board and provide quarterly or other appropriate reports to the Finance Committee and the Board as required by law (Government Code sections §53607 and 53646).

3.2 Deliver, deposit and safeguard securities in which funds are invested pursuant to the provisions of Government Code sections 53601 and 53608.

3.3 Ensure that no District funds are in a prohibited investment, including but not limited to those identified in Government Code section § 53601.6 and that investments are made within the restrictions imposed by the District’s Investment Policy.

3.4 Ensure that appropriate security is given for all District funds on deposit (Government Code section §53632.5).

3.5 Ensure compliance with all deposit and depository requirements of the Government Code, including but not limited to sections §§53635, 53637, 53638 and 53640.

3.6 Ensure that only qualified broker dealers or purchase agents are utilized to acquire investments (Government Code section §53601.5).

3.7 Ensure that all appropriate contracts and assurances are entered into with depositories of District funds and securities pursuant to Government Code sections §§53648, 53649 and 53682.

3.8 Ensure that all audits and reports required of depositories of securities are rendered to the District (Government Code section § 53651.4).
COACHELLA VALLEY MOSQUITO & VECTOR CONTROL DISTRICT
FINANCE POLICY

<table>
<thead>
<tr>
<th>Subject</th>
<th>Policy Number</th>
<th>Date Adopted</th>
<th>Date Revised</th>
</tr>
</thead>
<tbody>
<tr>
<td>Credit Card Procedure</td>
<td>2.01</td>
<td>06/24/08</td>
<td></td>
</tr>
</tbody>
</table>

For certain purchases, use of a credit card is expedient and frequently necessary (e.g. car rental). The General Manager has the authority to assign CAL-Cards to individual staff members and to establish the purchase limits for those cards. In general, the card limits are set by job position and the award levels set in the Purchasing Policy below Board Approval.

<table>
<thead>
<tr>
<th>Position Title</th>
<th>30 Day Limit</th>
<th>Single Purchase Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Manager</td>
<td>*20,000</td>
<td>*5,000</td>
</tr>
<tr>
<td>Manager Level</td>
<td>*10,000</td>
<td>*5,000</td>
</tr>
<tr>
<td>Supervisor Level</td>
<td>*5,000</td>
<td>*2,500</td>
</tr>
<tr>
<td>Non-Supervisory Level</td>
<td>*2,500</td>
<td>*1,250</td>
</tr>
</tbody>
</table>

*General Manager may change individual card holder limits

At the discretion of the General Manager, purchase limits may change depending on job requirements and circumstances. The Finance Manager is the CAL-Card Program Administrator. Use of the CAL-Card is limited to purchases specifically related to District business and are pre-approved for a specific “not to exceed” amount agreed to for the purchase or for authorized travel and meeting purposes. Use of the CAL-Card for personal purchases is not permitted.

CAL-Card purchases must be pre-approved and are restricted by the Purchasing Policy Award Levels. All District CAL-Cards will be secured in the District’s safe until needed.

**Cardholder Responsibilities:**

Cardholder is responsible for using the credit card in accordance with the District’s policies and procedures and any procurement regulations that may be applicable. It is the responsibility of the Cardholder to:

- Sign the card in the signature panel.
- Maintain card security to prevent unauthorized charges against the account.
- Obtain a receipt at the point of purchase and verify it for accuracy.
- Call U.S. Bank Customer Service (or Finance Department) immediately to report lost or stolen cards.
- Notify U.S. Bank Customer Service (or Finance Department) of any billing discrepancies posted on Cardholder statement that cannot be resolved with the merchant.
- Forward and sign the reconciled statement, purchase documentation, and all associated receipts/charge slips to manager or designated office.
- Notify the Program Administrator of name, telephone, address or other account changes.
- Only the Cardholder is authorized to use the card. It has been especially designed to prevent the Cardholder from confusing it with personal credit cards.

Amended 6/24/2008
Before any purchase is made on a District credit card, the following process must be followed:

**Pre – Approval**

- **Requester** – completes a Credit Card Approval Form
- **Supervisor** – approves Requestors Credit Card Approval Form.
- **General Manager or Designee** – approves Requestors Credit Card Approval Form after Supervisor has signed consent.

**After Final Approval:**

- **Finance Department** – upon receipt of the completed Credit Card Approval Form, the card will be signed out to the Requester by a member of the Finance Department.
  - Verifies that the approval process has been followed, initials the documentation, and then return the paperwork to the safe.

**Purchase:**

- **Requestor**– makes purchase as authorized on the Credit Card Approval Form.
  - Obtains a receipt at the point of purchase and verifies it for accuracy.
  - returns the CAL-Card and receipt to the Finance Department

- **Finance Department:**
  - returns card to safe
  - attaches receipt to pre-approval paperwork

**Statements:**

- **Administrative Clerk**
  - makes copies of the statements
  - notes the *CAL-Card Checklist* spreadsheet of each cardholder’s total bill
  - distributes statements to the Cardholders with back-up documents

- **Cardholders**
  - completes the *CAL-Card Description of Transactions* form for each transaction
  - signs the statement

- **Administrative Clerk**
  - collects the signed statements
  - checks that all the receipts are attached
  - completes the *Expense Sheet*

- **Accounting Clerk**
  - second checks the *Expense Sheet* to ensure all entries are correct
  - matches these entries with the first spreadsheet - *CAL-Card Checklist*
  - forwards the statements to the Approving Official
• **Approving Officer**
  - General Manager/Desigee approves statements except own.
  - Assistant to the General Manager approves General Manager’s statement

• **Accounting Clerk**
  - enters the *Expense Sheet* into FundWare verifying the budget accounts

**Payment** - the credit card statement enters through the regular Accounts Payable process