

Senate Bill No. 184

CHAPTER 269

An act to amend Sections 27202, 27203, 27203.5, 27210, 27211, 27230, 27231, 27256, 27257, 27320, 27321, 27321.5, 27360, 66497, and 66499.7 of, and to repeal Section 27251 of, the Government Code, to amend Sections 5470, 5473.4, 5474.4, and 5474.5 of the Health and Safety Code, to amend Sections 20150.1, 20200, 22010, 22014, 22015, 22017, 22030, 22034, 22036, 22039, 22043, and 22044 of, and to add Section 22042.5 to, the Public Contract Code, to amend Sections 8333, 8335, 36627, 36705, and 36718 of, and to add Section 36509.5 to, the Streets and Highways Code, and to amend Sections 35406 and 37921 of the Water Code, relating to local government.

[Approved by Governor September 4, 2015. Filed with
Secretary of State September 4, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 184, Committee on Governance and Finance. Local government: omnibus bill.

(1) Existing law authorizes specified local entities, including cities, counties, special districts, and other authorized public corporations, to collect fees, tolls, rates, rentals, or other charges for water, sanitation, storm drainage, or sewerage system services and facilities. Under existing law, a local entity may collect these charges on the property tax roll at the same time and in the same manner as its general property taxes. If the entity collects these charges in this way, existing law requires the entity to prepare and file with its clerk or secretary a report describing each parcel of property receiving the above-described services and the amount charged. Existing law requires the clerk or secretary to annually file the report with the auditor. Existing law defines "clerk" for these purposes to mean the official clerk or secretary of the entity. Existing law also authorizes these local entities to fix fees or charges for the privilege of connecting parcels of property to their sanitation or sewerage facilities, subject to specified procedures. Existing law requires the legislative body of the local entity to annually file with the auditor a list of lots or parcels of land subject to these fees or charges and the amounts of the installments of the fees or charges to be entered against the affected lots or parcels of land. Existing law requires the auditor to enter on the assessment roll the amounts of installments of these fees or charges. Existing law defines the auditor, for the purposes of these provisions, as the financial officer of the local entity.

This bill would instead define "clerk" to mean the clerk of the legislative body or secretary of the entity. The bill would clarify that the above-described provisions relating to the authority and duties of the auditor

apply only to the county auditor. The bill would also make technical, nonsubstantive changes to these provisions.

(2) Existing law requires a county recorder, upon payment of proper fees and taxes, to accept for recordation any instrument, paper, or notice that is authorized or required to be recorded, as specified. Existing law authorizes a county recorder to make marginal notations to indicate whether internal revenue stamps were affixed to specified documents.

This bill would instead authorize the county recorder to make marginal notations on records as part of the recording process.

Existing law requires a county recorder to keep an index of the separate property of married women, as specified.

This bill would repeal this requirement.

Existing law authorizes a county recorder to keep a general grantor-grantee index of specified recorded documents relating to real property transfers.

This bill would authorize the recorder to combine the general grantor-grantee index in a computerized or electronic format, as provided.

Existing law establishes the procedures that a county recorder is required to follow to record an instrument that is authorized by law to be recorded and deposited in the recorder's office, including, among other requirements, that the recorder endorse upon the document the name of the person who requested its recordation.

This bill would delete that endorsement requirement.

Existing law requires, before a recorder accepts it for recording, a deed or instrument executed to convey fee title to real property to note across the bottom of the first page the name and address to which future tax statements may be mailed.

This bill would delete the requirement that this information appear across the bottom of the page. The bill would also make technical changes to various provisions related to county recorders.

(3) Existing law, the Subdivision Map Act, provides that the regulation and control of the design and improvement of subdivisions is vested in the legislative bodies of local agencies. Existing law requires that an engineer or surveyor making a survey for a final subdivision map or parcel map set sufficient durable monuments so that another engineer or surveyor may readily retrace the survey, as specified. Existing law authorizes a city or county to require a subdivider to provide a deposit to ensure the payment of various fees and services related to a final map or parcel map, including payment of the cost of setting the final monuments. Existing law requires that if an engineer or surveyor's costs of setting final monuments are to be paid from the deposit held by the city or county, the payment be made by the city or county's legislative body within a specified period of time.

This bill would allow the legislative body to authorize any public officer or employee, as specified, to release or reduce the amount of the cash deposit to pay the engineer or surveyor for setting the final monuments.

The Subdivision Map Act and local ordinances authorize or require, under specified circumstances, the furnishing of specified types of security with respect to the performance of various acts or agreements subject to the act.

Existing law, until January 1, 2016, also sets forth the specific requirements imposed on a local agency for the complete or partial release of a performance security furnished by a subdivider.

This bill would delete the repeal of the provisions relating to the requirements for releasing a performance security, thereby extending the operation of these provisions indefinitely and imposing a state-mandated local program.

(4) Existing law, the Uniform Public Construction Cost Accounting Act (UPCCAA), establishes the California Uniform Construction Cost Accounting Commission, which is responsible for recommending, for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the construction of public projects. Existing law requires the commission to consist of 14 members, including 2 members who represent school districts, one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000. Existing law requires that members of the commission hold office for terms of 3 years and until their successors are appointed, and requires the Controller to appoint a replacement to fill a vacancy on the commission within 90 days after the expiration of any term. Existing law requires that each member of the commission serve without compensation, but requires them to be reimbursed for travel and other expenses, as provided.

This bill would delete the requirement that the 2 members who represent school districts represent districts with an average daily attendance above and below 25,000. The bill would clarify that the Controller may reappoint members of the commission for subsequent three year terms, would authorize the Controller to appoint a successor for any commissioner after his or her 3-year term expires, and would require the Controller to fill any vacancy on the commission within 120 days, instead of 90 days, after the expiration of any term. The bill would also require reimbursement rates for travel by members of the commission to conform to the Controller's travel guideline rates.

The UPCCAA requires each participating local agency to adopt an informal bidding ordinance that, among other things, specifies the manner in which notices inviting informal bids are to be sent to a list of qualified contractors, construction trade journals, or both.

This bill would clarify the requirements of that ordinance and would authorize notices inviting informal bids to be faxed or emailed to the appropriate contractors list or trade journals, as provided.

The UPCCAA requires the governing body of a participating local agency to adopt plans, specifications, and working details for public projects that exceed a specified value.

This bill would authorize that governing body to designate a representative to adopt those plans, specifications, and working details.

The UPCCAA requires the commission to review the accounting procedures of any participating public agency if an interested party presents evidence that the work undertaken by the public agency falls within specified

categories, and provides procedures by which an interested party must make a request.

This bill would additionally require the commission to review practices of any participating public agency if an interested party presents evidence that the public agency is not in compliance with a specified provision of the UPCCAA and would require that this request be in writing, sent by certified or registered mail, and received by the commission, as specified. The bill would require the commission review to commence immediately and conclude 90 days from the receipt of the request for commission review.

The UPCCAA requires the commission to prepare written findings after it reviews an agency's compliance with the act or uniform cost accounting procedures, requires the public agency to present the commission's findings to its governing body, and requires that governing body to conduct a public hearing regarding those findings within 30 days of receipt of the findings, as provided.

This bill would require the commission to present the written findings to the public agency within 30 calendar days of formal commission review, would require the public agency to present the commission's findings to the governing body of that agency within 30 calendar days receipt of written notice of the findings, and would require that governing body to hold a public hearing regarding the commission's findings within 60 calendar days, instead of 30 days, of receiving those findings. The bill, on findings of noncompliance, would require the agency to notify its governing body of the commission's findings within 60 calendar days of receipt of written notice of the findings from the commission, and would require the agency to notify the commission in writing, within 90 days, of the public agency's best efforts to comply, as specified.

(5) Existing law requires any county with a population of less than 500,000 to employ certain bidding procedures on public projects. Existing law authorizes every county, whether general law or charter, containing a population of less than 500,000 to participate in the UPCCAA.

This bill would also authorize a county, whether general law or charter, containing a population of less than 500,000 to award individual annual contracts, as provided.

(6) Existing law authorizes the legislative body of a local agency to summarily vacate a public service easement, under specified circumstances. Existing law authorizes the legislative body of a local agency to vacate street, highway, or public service easement by adopting a resolution of vacation containing specified information.

This bill would authorize the legislative body of a local agency to designate any public officer or employee to summarily vacate a public service easement under the same conditions, and would authorize the legislative body of a local agency to delegate the authority to vacate a public service easement to any public officer or employee, as provided. The bill, if the resolution of vacation applies to a public service easement vacated by a public officer or employee, would also require the resolution to contain

a certification that all entities having any right, title, or interest in the public service easement being vacated have been notified of this action.

(7) The Parking and Business Improvement Area Law of 1989 authorizes local governmental agencies to levy assessments on businesses located and operating in a designated parking and business improvement area. The Multifamily Improvement District Law authorizes the establishment of multifamily improvement districts within a city or county to levy assessments on residential rental properties within the district for the purpose of financing certain improvements and promoting certain activities beneficial to those properties. Those laws impose certain duties upon the clerk with regard to the levy of those assessments.

This bill would define “clerk” for purposes of those laws to mean the clerk of the legislative body, and would make a related conforming change.

(8) Existing law authorizes a water district to execute, by its president and secretary, all contracts and other documents necessary to carry out the powers and purposes of the district.

This bill would authorize the governing board of a water district to delegate to district officers and employees the power to execute contracts on the district’s behalf.

(9) Existing law provides for the formation of the Paso Robles Basin Water District, and authorizes the board of directors of the district to adopt ordinances relating to the use and extraction of groundwater after noticed public hearings. Existing law authorizes the board to dispense with the notice of public hearing and adopt an emergency ordinance by the vote of at least 4 members of the board.

This bill would instead require a vote of at least 7 members of the board to dispense with the notice of public hearing and adopt an emergency ordinance.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. (a) This act shall be known, and may be cited, as the Local Government Omnibus Act of 2015.

(b) The Legislature finds and declares that Californians want their governments to be run efficiently and economically and that public officials should avoid waste and duplication whenever possible. The Legislature further finds and declares that it desires to control its own costs by reducing the number of separate bills. Therefore, it is the intent of the Legislature in enacting this act to combine several minor, noncontroversial statutory

changes relating to the common theme, purpose, and subject of local government into a single measure.

SEC. 2. Section 27202 of the Government Code is amended to read:

27202. Upon the request of any officer of the United States, the county recorder shall record instruments to which the United States is a party without payment of the recording fee in advance and shall execute the proper government voucher for payment. Upon payment, the fee shall be transmitted to the Treasurer with the recorder's first settlement after the collection.

SEC. 3. Section 27203 of the Government Code is amended to read:

27203. (a) Any recorder to whom an instrument proved or acknowledged according to law or any paper or notice which may by law be recorded is delivered for record is liable to the party aggrieved for the amount of the damages occasioned thereby, if he or she commits any of the following acts:

(1) Neglects or refuses to record the instrument, paper, or notice within a reasonable time after receiving it. This subdivision shall not apply to an instrument, paper, or notice that the recorder has determined to be an unrecordable document pursuant to this chapter. Nothing in this subdivision shall preclude the application of Section 27201.

(2) The recorder may provide, to any person presenting a document the recorder determines to be an unrecordable document, a form stating that the person has the right to judicial review in a court of competent jurisdiction of the recorder's refusal to record the document. The form shall include a section stating the recorder's reason for refusing the document. The form shall provide notice that it is a public offense to further attempt to record the document without an order of the court as provided by Section 27204. The recorder shall keep a correct copy of the refused document. In the event the document is determined by the court to be a recordable document, the recorder shall pay the filing fees for the review, and shall record the document within a reasonable time.

(b) Records any instrument, paper, or notice, willfully or negligently, untruly, or in any manner other than that prescribed by this chapter.

(c) Neglects or refuses to keep in his or her office or to make the proper entries in the indices required by this chapter.

(d) Alters, changes, obliterates, or inserts any new matter in any records deposited in the recorder's office. The recorder may make marginal notations on records as part of the recording process.

SEC. 4. Section 27203.5 of the Government Code is amended to read:

27203.5. If the recorder willfully and maliciously commits any of the acts described in Section 27203 or derives a personal financial benefit from committing any of those acts, the recorder is liable to the party aggrieved for three times the amount of damages occasioned thereby.

SEC. 5. Section 27210 of the Government Code is amended to read:

27210. The county recorder may use a printed, stamped or photographically reproduced facsimile signature in certifying to a record in the recorder's office provided such certification has the seal of the recorder's office affixed thereto.

SEC. 6. Section 27211 of the Government Code is amended to read:

27211. The recorder shall keep an official seal of the recorder's office which shall, when embossed, stamped, impressed or affixed to a certification, show legibly.

Such seal shall:

- (a) Be circular in shape;
- (b) Be not less than 1 ¼ inches and not more than 2 inches in diameter;
- (c) Have in the center any words or design adopted by the recorder;
- (d) Have inscribed around the central words or design, "Recorder, _____ County, California," inserting therein the name of the county.

Nothing contained herein shall prohibit a recorder from continuing to use a seal of a design different than that specified herein if such seal has customarily been used.

SEC. 7. Section 27230 of the Government Code is amended to read:

27230. The recorder shall procure such books for records as the business of the recorder's office requires, but orders for the books shall first be obtained from the board of supervisors. The books used may contain printed forms of deeds, mortgages, or other instruments of general use.

SEC. 8. Section 27231 of the Government Code is amended to read:

27231. The recorder has the custody of, and shall keep all books, records, maps, and papers deposited in the recorder's office.

SEC. 9. Section 27251 of the Government Code is repealed.

SEC. 10. Section 27256 of the Government Code is amended to read:

27256. The recorder shall keep such other indices as are required in the performance of official duties.

SEC. 11. Section 27257 of the Government Code is amended to read:

27257. Instead of those indices indicated in this division, the recorder may utilize either of the following systems of indexing:

(a) The recorder may keep two indices, labeled respectively: "General index of grantors" (names of grantors, defendants, and first parties, who would otherwise be indexed in any of the other indices specified in this article) and "General index of grantees" (names of grantees, plaintiffs, and second parties, who would otherwise be indexed in any of the other indices specified in this article). Each page of the general index of grantors shall be divided into seven columns, labeled respectively: "Date filed," "Grantors and defendants," "Grantees and plaintiffs," "Title," "Document number," "Book," and "Page." Each page of the general index of grantees shall be divided into seven columns, labeled respectively: "Date filed," "Grantees and plaintiffs," "Grantors and defendants," "Title," "Document number," "Book," and "Page"; or

(b) The recorder may combine the general index of grantors and the general index of grantees into a single index which shall alphabetically combine the grantors and grantees as defined in subdivision (a). Each page of the "General grantor-grantee index" shall be divided into seven columns, labeled respectively: "Date filed," "Grantors-grantees," "Grantees-grantors," "Title," "Document number," "Book," and "Page." Where such a combined index is used, the names of the grantors shall be distinguished from the

names of the grantees, as respectively defined in subdivision (a), by an easily recognizable mark or symbol.

(c) Indexing as enumerated in subdivisions (a) and (b) may be in lieu of indexing in any of the other indices, and shall impart notice in like manner and effect as the indexing would otherwise impart in the other indices provided for in this division. If the recorder keeps any other index, the recorder shall not be required to index those names in the general index as enumerated in subdivisions (a) and (b). Nothing in this section shall prevent the recorder from indexing any names which also appear in any other of the recorder's indices.

(d) Where the method of subdivision (a) or (b) is utilized, and in those counties where the recorder alphabetizes grantors' and grantees' names by mechanical methods, fewer columnar headings may be used in the indices, if adequate index reference to the location of each document in the permanent file, book, or film record is provided.

(e) The alphabetical subdivisions in each of the general indices shall be so arranged, as nearly as possible, that the entries to be made in the indices will be equally apportioned. The alphabetical subdivisions shall be sufficient in number to facilitate reference.

(f) The recorder may keep in the same volume any two or more of the indices enumerated in this article, and the several indices shall be kept distinct from each other and the volume distinctly marked on the outside so as to show all the indices kept in it, provided that nothing in this section shall prohibit the recorder from combining the general indices in one volume as enumerated in subdivision (b). The names of the parties in the first column in the several indices shall be arranged in alphabetical order.

(g) The recorder may combine the general grantor-grantee index in a computerized or electronic format. The names of the grantors shall be distinguished from the names of the grantees, as respectively defined in subdivision (a), by an easily recognizable mark or symbol.

SEC. 12. Section 27320 of the Government Code is amended to read:

27320. When any instrument authorized by law to be recorded is deposited in the recorder's office for record, the recorder shall endorse upon it in the order in which it is deposited, the year, month, day, hour, and minute of its reception, and the amount of fees for recording. The recorder shall record it without delay, together with the acknowledgements, proofs, certificates, and prior recording data written upon or annexed to it, with the plats, surveys, schedules, and other papers thereto annexed, and shall note on the record its identification number. Efforts shall be made to assign identification numbers sequentially, but an assignment of a nonsequential number may be made if not in violation of express recording instructions regarding a group of concurrently recorded instruments and if, in the discretion of the county recorder, such assignment best serves the interest of expeditious recording.

SEC. 13. Section 27321 of the Government Code is amended to read:

27321. (a) The recorder shall endorse upon each instrument the identification number or book and page where it is recorded, and shall

thereafter mail it to the person named in the instrument for return mail, or deliver it to the party presenting it for record.

(b) Where any recorded instrument or document effectuating a change in ownership is not accompanied by a change in ownership statement, the recorder shall either include with the return of any such recorded instrument or document a change in ownership statement as provided in Section 480 of the Revenue and Taxation Code or specifically identify those recorded documents not accompanied by an ownership statement when providing the assessor with a copy of the transfer of ownership document pursuant to Section 255.7 of the Revenue and Taxation Code.

SEC. 14. Section 27321.5 of the Government Code is amended to read:

27321.5. Before acceptance for recording, in addition to the address required on each document for delivery by the recorder, all of the following shall apply:

(a) Every deed or instrument executed to convey fee title to real property shall have noted on the first page or sheet thereof the name and address to which future tax statements may be mailed.

(b) Every deed of trust or mortgage with power of sale upon real property, shall specify the address of the trustor or mortgagor, or if more than one, the address of any one of them, and shall contain a request by the trustor or mortgagor that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to one trustor or mortgagor designated for the purpose of receiving such notice at the address so specified.

(c) The failure to note, pursuant to subdivision (a) or (b), or any error in noting, any such name or address or request shall not affect the validity of the deed, instrument, deed of trust or mortgage or the notice otherwise imparted by recording. This section does not apply to the State Lands Commission.

SEC. 15. Section 27360 of the Government Code is amended to read:

27360. For services performed by the recorder's office, the county recorder shall charge and collect the fees fixed in this article.

SEC. 16. Section 66497 of the Government Code is amended to read:

66497. (a) Within five days after the final setting of all monuments has been completed, the engineer or surveyor shall give written notice to the subdivider, and to the city engineer or the county surveyor or any other public official or employee authorized to receive these notices, that the final monuments have been set.

(b) Upon payment to the engineer or surveyor for setting the final monuments, the subdivider shall present to the legislative body evidence of the payment and receipt thereof by the engineer or surveyor. In the case of a cash deposit, the legislative body shall pay the engineer or surveyor for the setting of the final monuments from the cash deposit, if so requested by the depositor.

(c) If the subdivider does not present evidence to the legislative body that the engineer or surveyor has been paid for the setting of the final monuments, and if the engineer or surveyor notifies the legislative body that payment has not been received from the subdivider for the setting of

the final monuments, the legislative body shall, within three months from the date of the notification, pay to the engineer or surveyor from any deposit the amount due.

(d) The legislative body may authorize a public officer or employee otherwise qualified to prepare or approve parcel maps or final maps as defined in Title 7 of Division 2 to release or reduce the amount of the cash deposit to pay the engineer or surveyor for setting the final monuments pursuant to the conditions specified in this section. The legislative body may prescribe additional rules related to this authorization.

SEC. 17. Section 66499.7 of the Government Code is amended to read:

66499.7. The security furnished by the subdivider shall be released in whole or in part in the following manner:

(a) Security given for faithful performance of any act or agreement shall be released upon the performance of the act or final completion and acceptance of the required work. The legislative body may provide for the partial release of the security upon the partial performance of the act or the acceptance of the work as it progresses, consistent with the provisions of this section. The security may be a surety bond, a cash deposit, a letter of credit, escrow account, or other form of performance guarantee required as security by the legislative body that meets the requirements as acceptable security pursuant to law. If the security furnished by the subdivider is a documentary evidence of security such as a surety bond or a letter of credit, the legislative body shall release the documentary evidence and return the original to the issuer upon performance of the act or final completion and acceptance of the required work. In the event that the legislative body is unable to return the original documentary evidence to the issuer, the security shall be released by written notice sent by certified mail to the subdivider and issuer of the documentary evidence within 30 days of the acceptance of the work. The written notice shall contain a statement that the work for which the security was furnished has been performed or completed and accepted by the legislative body, a description of the project subject to the documentary evidence and the notarized signature of the authorized representative of the legislative body.

(b) At the time that the subdivider believes that the obligation to perform the work for which security was required is complete, the subdivider may notify the local agency in writing of the completed work, including a list of work completed. Upon receipt of the written notice, the local agency shall have 45 days to review and comment or approve the completion of the required work. If the local agency does not agree that all work has been completed in accordance with the plans and specifications for the improvements, it shall supply a list of all remaining work to be completed.

(c) Within 45 days of receipt of the list of remaining work from the local agency, the subdivider may then provide cost estimates for all remaining work for review and approval by the local agency. Upon receipt of the cost estimates, the local agency shall then have 45 days to review, comment, and approve, modify, or disapprove those cost estimates. No local agency shall be required to engage in this process of partial release more than once

between the start of work and completion and acceptance of all work; however, nothing in this section prohibits a local agency from allowing for a partial release as it otherwise deems appropriate.

(d) If the local agency approves the cost estimate, the local agency shall release all performance security except for security in an amount up to 200 percent of the cost estimate of the remaining work. The process allowing for a partial release of performance security shall occur when the cost estimate of the remaining work does not exceed 20 percent of the total original performance security unless the local agency allows for a release at an earlier time. Substitute bonds or other security may be used as a replacement for the performance security, subject to the approval of the local agency. If substitute bonds or other security is used as a replacement for the performance security released, the release shall not be effective unless and until the local agency receives and approves that form of replacement security. A reduction in the performance security, authorized under this section, is not, and shall not be deemed to be, an acceptance by the local agency of the completed improvements, and the risk of loss or damage to the improvements and the obligation to maintain the improvements shall remain the sole responsibility of the subdivider until all required public improvements have been accepted by the local agency and all other required improvements have been fully completed in accordance with the plans and specifications for the improvements.

(e) The subdivider shall complete the works of improvement until all remaining items are accepted by the local agency.

(f) Upon the completion of the improvements, the subdivider, or his or her assigns, shall be notified in writing by the local agency within 45 days.

(g) Within 45 days of the issuance of the notification by the local agency, the release of any remaining performance security shall be placed upon the agenda of the legislative body of the local agency for approval of the release of any remaining performance security. If the local agency delegates authority for the release of performance security to a public official or other employee, any remaining performance security shall be released within 60 days of the issuance of the written statement of completion.

(h) Security securing the payment to the contractor, his or her subcontractors, and to persons furnishing labor, materials, or equipment shall, after passage of the time within which claims of lien are required to be recorded pursuant to Article 2 (commencing with Section 8410) of Chapter 4 of Title 2 of Part 6 of Division 4 of the Civil Code and after acceptance of the work, be reduced to an amount equal to the total claimed by all claimants for whom claims of lien have been recorded and notice thereof given in writing to the legislative body, and if no claims have been recorded, the security shall be released in full.

(i) The release shall not apply to any required guarantee and warranty period required by Section 66499.9 for the guarantee or warranty nor to the amount of the security deemed necessary by the local agency for the guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorney's fees.

(j) The legislative body may authorize any of its public officers or employees to authorize release or reduction of the security in accordance with the conditions hereinabove set forth and in accordance with any rules that it may prescribe.

SEC. 18. Section 5470 of the Health and Safety Code is amended to read:

5470. The following words wherever used in this article shall be construed as defined in this section, unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words:

(a) Assessment Roll. "Assessment roll" refers to the assessment roll upon which general taxes of the entity are collected.

(b) Auditor. "Auditor" means the financial officer of the entity.

(c) Clerk. "Clerk" means the clerk of the legislative body or secretary of the entity.

(d) Chambers. "Chambers" refers to the place where the regular meetings of the legislative body of the entity are held.

(e) Entity. "Entity" means and includes counties, cities and counties, cities, sanitary districts, county sanitation districts, county service areas, sewer maintenance districts, and other public corporations and districts authorized to acquire, construct, maintain and operate sanitary sewers and sewerage systems.

(f) Rates or Charges. "Rates or charges" shall mean fees, tolls, rates, rentals, or other charges for services and facilities furnished by an entity in connection with its sanitation or sewerage systems, including garbage and refuse collection.

(g) Real Estate. "Real estate" includes:

(1) The possession of, claim to, ownership of, or right to possession of land; and

(2) Improvements on land.

(h) Tax Collector. "Tax collector" means the officer who collects general taxes for the entity.

The amendment of this section made by the 1972 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 19. Section 5473.4 of the Health and Safety Code is amended to read:

5473.4. On or before August 10 of each year following the final determination upon each charge, the clerk shall file with the county auditor a copy of the report prepared pursuant to Section 5473 with a statement endorsed on the report over his or her signature that the report has been finally adopted by the legislative body of the entity and the county auditor shall enter the amounts of the charges against the respective lots or parcels of land as they appear on the current assessment roll. Where any of the parcels are outside the boundaries of the entity they shall be added to the assessment roll of the entity for the purpose of collecting the charges. If the property is not described on the roll, the county auditor may enter the

description on the roll together with the amounts of the charges, as shown in the report.

SEC. 20. Section 5474.4 of the Health and Safety Code is amended to read:

5474.4. On or before August 10 of each year following the final determination, the legislative body shall certify to the county auditor a list of the lots or parcels of land, as they appear on the current assessment roll, subject to any fees or charges and the amounts of the installments of those fees or charges and interest to be entered against the lots or parcels on the assessment roll. In the event a lot or parcel connected to the facilities is subsequently divided into two or more lots or parcels as shown on the current assessment roll, the legislative body shall designate the lot or parcel that remains connected to the facilities and against which the installments of the fees or charges and interest are to be entered.

SEC. 21. Section 5474.5 of the Health and Safety Code is amended to read:

5474.5. The county auditor shall enter on the current assessment roll the amounts of the installments of any fees or charges and interest and, except as provided in Section 5474.6, the amounts thereof shall constitute a lien against the lot or parcel of land against which levied as of noon on the first Monday in March immediately preceding the date of entry.

SEC. 22. Section 20150.1 of the Public Contract Code is amended to read:

20150.1. (a) Notwithstanding any other law, except as provided in subdivision (b) or (c), every county, whether general law or charter, containing a population of less than 500,000 shall employ bidding procedures on public projects as provided in this article. This article shall be liberally construed to effect its purposes. In the event of conflict with any other provision of law relative to bidding procedures, the provisions of this article shall apply.

(b) Every county, whether general law or charter, containing a population of less than 500,000 is authorized to participate in the Uniform Public Construction Cost Accounting Act under Chapter 2 (commencing with Section 22000) of Part 3 of Division 2.

(c) A county, whether general law or charter, containing a population of less than 500,000 may award individual annual contracts as provided in Section 20128.5.

SEC. 23. Section 20200 of the Public Contract Code is amended to read:

20200. The provisions of this article shall apply to contracts subject to the Public Utility District Act provided for in Division 7 (commencing with Section 15501) of the Public Utilities Code.

SEC. 24. Section 22010 of the Public Contract Code is amended to read:

22010. There is hereby created the California Uniform Construction Cost Accounting Commission. The commission is comprised of 14 members.

(a) Thirteen of the members shall be appointed by the Controller as follows:

(1) Two members who shall each have at least 10 years of experience with, or providing professional services to, a general contracting firm engaged, during that period, in public works construction in California.

(2) Two members who shall each have at least 10 years of experience with, or providing professional services to, a firm or firms engaged, during that period, in subcontracting for public works construction in California.

(3) Two members who shall each be a member in good standing of, or have provided professional services to, an organized labor union with at least 10 years of experience in public works construction in California.

(4) Seven members who shall each be experienced in, and knowledgeable of, public works construction under contracts let by public agencies; two each representing cities, counties, respectively, and two members representing school districts, and one member representing a special district. At least one of the two county representatives shall be a county auditor or his or her designee.

(b) The member of the Contractors' State License Board who is a general engineering contractor as that term is defined in Section 7056 of the Business and Professions Code shall serve as an ex officio voting member.

SEC. 25. Section 22014 of the Public Contract Code is amended to read: 22014. (a) The members of the commission shall hold office for terms of three years, and until their successors are appointed.

(b) Members may be reappointed, by the Controller, for subsequent terms of three years.

(c) The Controller may appoint a successor for any commissioner after his or her three-year term expires.

(d) The Controller shall, within 120 days, appoint a replacement to fill any vacancy on the commission.

SEC. 26. Section 22015 of the Public Contract Code is amended to read: 22015. (a) The Controller shall make available for the conduct of the commission's business, such staff and other support as does not conflict with the accomplishment of the other business of the office of the Controller.

(b) Each member of the commission shall serve without compensation, but shall be reimbursed for travel and other expenses necessarily incurred in the performance of the member's duties. Reimbursement rates shall conform to the Controller's travel guideline rates.

(c) The commission may accept grants from federal, state, or local public agencies, or from private foundations or individuals, in order to assist it in carrying out its duties, functions, and powers under this chapter.

SEC. 27. Section 22017 of the Public Contract Code is amended to read: 22017. The commission shall do all of the following:

(a) After due deliberation and study, recommend for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the performance of, or in contracting for, construction on public projects. The procedures shall, to the extent deemed feasible and practicable by the commission, incorporate, or be consistent with construction cost accounting procedures and reporting requirements utilized by state and federal agencies on public projects, and

be uniformly applicable to all public agencies which elect to utilize the uniform procedures. As part of its deliberations and review, the commission shall take into consideration relevant provisions of the Office of Management and Budget Circular A-76, as periodically revised.

(b) After due deliberation and study, recommend for adoption by the Controller cost accounting procedures designed especially for implementation by California cities with a population of less than 75,000. The procedures shall incorporate cost accounting and reporting requirements deemed practicable and applicable to all cities under 75,000 population which elect to utilize the uniform procedures. For purposes of these cost accounting procedures, the following shall apply:

(1) Cities with a population of less than 75,000 shall assume an overhead rate equal to 20 percent of the total costs of a public project, including the costs of material, equipment, and labor.

(2) Cities with a population of more than 75,000 may either calculate an actual overhead rate or assume an overhead rate equal to 30 percent of the total costs of a public project, including the costs of material, equipment, and labor.

(c) Recommend for adoption by the Controller, procedures and standards for the periodic evaluation and adjustment, as necessary, of the monetary limits specified in Section 22032.

(d) The commission shall make an annual report to the Legislature with respect to its activities and operations, together with those recommendations as it deems necessary.

SEC. 28. Section 22030 of the Public Contract Code is amended to read:

22030. (a) This article applies only to a public agency whose governing board has by resolution elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010) and which has notified the Controller of that election. In the event of a conflict with any other provision of law relative to bidding procedures, this article shall apply to any public agency which has adopted a resolution and so notified the Controller.

(b) A county, whether general law or charter, containing a population of less than 500,000 may award individual annual contracts as provided in Section 20128.5.

SEC. 29. Section 22034 of the Public Contract Code is amended to read:

22034. Each public agency that elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) shall enact an informal bidding ordinance to govern the selection of contractors to perform public projects pursuant to subdivision (b) of Section 22032. The ordinance shall include all of the following:

(a) Notice to contractors shall be provided in accordance with either paragraph (1) or (2), or both.

(1) The public agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission. All contractors on the list for the category of work being bid

shall be mailed, faxed, or emailed a notice inviting informal bids unless the product or service is proprietary. All mailing of notices to contractors pursuant to this subdivision shall be completed not less than 10 calendar days before bids are due.

(2) The public agency may elect to mail, fax, or email a notice inviting informal bids to all construction trade journals specified in Section 22036.

(b) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(c) The governing body of the public agency may delegate the authority to award informal contracts to the public works director, general manager, purchasing agent, or other appropriate person.

(d) If all bids received are in excess of one hundred seventy-five thousand dollars (\$175,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.

SEC. 30. Section 22036 of the Public Contract Code is amended to read:
22036. The commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive mailed, faxed, or emailed notice of all informal and formal construction contracts being bid for work within the specified county.

SEC. 31. Section 22039 of the Public Contract Code is amended to read:
22039. The governing body of the participating public agency or its designated representative shall adopt plans, specifications, and working details for all public projects exceeding the amount specified in subdivision (c) of Section 22032.

SEC. 32. Section 22042.5 is added to the Public Contract Code, to read:
22042.5. The commission shall review practices of any participating public agency where an interested party presents evidence that the public agency is not in compliance with Section 22034.

SEC. 33. Section 22043 of the Public Contract Code is amended to read:
22043. (a) In those circumstances set forth in subdivision (a) of Section 22042, a request for commission review shall be in writing, sent by certified or registered mail received by the commission postmarked not later than eight business days from the date the public agency has rejected all bids.

(b) In those circumstances set forth in subdivision (b) or (c) of Section 22042, a request for commission review shall be by letter received by the commission not later than eight days from the date an interested party formally complains to the public agency.

(c) The commission review shall commence immediately and conclude within the following number of days from the receipt of the request for commission review:

(1) Forty-five days for a review that falls within subdivision (a) of Section 22042.

(2) Ninety days for a review that falls within subdivision (b) or (c) of Section 22042.

(d) During the review of a project that falls within subdivision (a) of Section 22042, the agency shall not proceed on the project until a final decision is received by the commission.

(e) A request for commission review pursuant to Section 22042.5 shall be in writing, sent by certified or registered mail, and received by the commission no later than eight days from the day an interested party formally complains to the public agency. The commission review shall commence immediately and conclude within 90 days from the receipt of the request for commission review.

SEC. 34. Section 22044 of the Public Contract Code is amended to read:

22044. The commission shall prepare written findings, which shall be presented to the public agency within 30 calendar days of formal commission review. Should the commission find that the provisions of this chapter or of the uniform cost accounting procedures provided for in this chapter were not complied with by the public agency, the following steps shall be implemented by that agency:

(a) On those projects set forth in subdivision (a) of Section 22042, the public agency has the option of either (1) abandoning the project, or (2) awarding the project to the lowest responsible bidder.

(b) On those projects set forth in subdivision (b) or (c) of Section 22042, the public agency shall present the commission's findings to its governing body within 30 calendar days of receipt of written notice of the findings and that governing body shall conduct a public hearing with regard to the commission's findings within 60 calendar days of receipt of the findings.

(c) (1) On findings of noncompliance pursuant to Section 22042.5, the public agency shall notify its governing body of the commission's findings within 60 calendar days of receipt of written notice of the findings from the commission.

(2) The public agency shall notify the commission in writing, within 90 days of receipt of written notice of the findings, of the public agency's best efforts to comply.

SEC. 35. Section 8333 of the Streets and Highways Code is amended to read:

8333. The legislative body of a local agency, or any public officer or employee authorized by the legislative body as provided in subdivision (a) of Section 8335, may summarily vacate a public service easement in any of the following cases:

(a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

(b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date.

(c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

SEC. 36. Section 8335 of the Streets and Highways Code is amended to read:

8335. (a) (1) The legislative body may vacate a street, highway, or public service easement pursuant to the authority provided in this chapter by adopting a resolution of vacation.

(2) The legislative body may delegate the authority to vacate a public service easement to any public officer or employee otherwise qualified to prepare easements or approve parcel maps or final maps as defined in Title 7 of Division 2 of the Government Code, pursuant to the authority provided in this chapter by recordation of a document containing the information in subdivision (b).

(b) The resolution of vacation shall state all of the following:

(1) That the vacation is made under this chapter.

(2) The name or other designation of the street, highway, or public service easement and a precise description of the portion vacated. The description of the portion vacated may be by a precise map which is recorded or to which reference is made in the resolution and which is permanently maintained by the public entity.

(3) The facts under which the summary vacation is made. If the vacation is made pursuant to Section 8332, the statement shall include the date of the agreement. The resolution is prima facie evidence of the facts stated.

(4) That from and after the date the resolution is recorded, the street, highway, or public service easement vacated no longer constitutes a street, highway, or public service easement.

(5) If the resolution of vacation applies to a public service easement vacated by a public officer or employee delegated authority pursuant to subdivision (a), a certification that all entities having any right, title, or interest in the public service easement being vacated have been notified of this action.

SEC. 37. Section 36509.5 is added to the Streets and Highways Code, to read:

36509.5. "Clerk" means clerk of the legislative body.

SEC. 38. Section 36627 of the Streets and Highways Code is amended to read:

36627. Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625 or Section 36626, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

SEC. 39. Section 36705 of the Streets and Highways Code is amended to read:

36705. As used in this part:

(a) "Activities" means, but is not limited to, all of the following:

(1) Providing security services supplemental to those normally provided by the city.

(2) Maintaining, including irrigating, landscaping.

(3) Providing sanitation, graffiti removal, street and sidewalk cleaning, and other public services supplemental to those normally provided by the city.

(4) Marketing, advertising, and promoting economic development, including the retention and recruitment of businesses and tenants.

(5) Providing managerial services for multifamily residential businesses.

(6) Providing building inspection and code enforcement services for multifamily residential businesses supplemental to those normally provided by the city.

(b) “Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the properties or businesses located within a multifamily improvement district.

(c) “Business” means all types of businesses, including, but not limited to, the operation of multifamily residential properties, retail stores, commercial properties, financial institutions, and professional offices.

(d) “City” means a city, county, city and county, or an agency or entity created pursuant to the Joint Exercise of Powers Act, Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county.

(e) “City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

(f) “Clerk” means clerk of the legislative body.

(g) “Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more, including, but not limited to:

(1) Parking facilities.

(2) Benches, booths, kiosks, display cases, pedestrian shelters, signs, and entry monuments.

(3) Trash receptacles.

(4) Street lighting.

(5) Street decorations.

(6) Parks.

(7) Fountains.

(8) Planting areas.

(9) Closing, opening, widening, or narrowing of existing streets.

(10) Facilities or equipment, or both, to enhance the security of persons and property within the district.

(11) Ramps, sidewalks, plazas, and pedestrian malls.

(12) Rehabilitation or removal of existing structures.

(h) “Management district plan” or “plan” means a proposal as described in Section 36713.

(i) “Multifamily improvement district,” or “district,” means a multifamily improvement district established pursuant to this part.

(j) “Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose.

(k) “Property” means real property situated within a multifamily improvement district.

(l) “Property owner” or “owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. The city council has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this subdivision requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient.

(m) “Tenant” means an occupant pursuant to a lease or a rental agreement of commercial space or a dwelling unit, other than an owner.

SEC. 40. Section 36718 of the Streets and Highways Code is amended to read:

36718. Following the adoption of the resolution establishing the district pursuant to Section 36716 or 36717, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. If the assessment is levied on businesses, the text of the recorded notice shall be modified to reflect that the assessment will be levied on businesses, or specified categories of businesses, within the area of the district. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

SEC. 41. Section 35406 of the Water Code is amended to read:

35406. (a) A district may execute, by its president and secretary, all contracts and other documents necessary to carry out the powers and purposes of the district.

(b) The board of a district may delegate and redelegate to officers and employees of the district, under the conditions and restrictions as shall be determined by the board, the power to bind the district by contract and execute contracts on behalf of the district.

SEC. 42. Section 37921 of the Water Code is amended to read:

37921. The board may adopt ordinances for the purpose of regulating, conserving, managing, and controlling the use and extraction of groundwater within the territory of the district. All ordinances shall be adopted, after noticed public hearings by a majority vote of the board. Notice of the adoption of all ordinances shall be given. The ordinances of the district shall become effective on the 31st day after adoption except that the board may,

by the vote of at least seven members of the board, dispense with notice of public hearing and adopt an emergency ordinance that shall become effective immediately upon adoption, if the board determines that the public health, safety, or welfare so requires.

SEC. 43. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.