

September 30, 2003

Dear Friend:

California's mosquito abatement districts have a long and successful record of applying science to counter public health threats. Their early battles against mosquito-borne malaria and the mid-century struggles with encephalitis demonstrated the value of local governments that were well organized and properly funded. The recent invasions by vectors such as the Asian tiger mosquito and by pathogens such as the West Nile virus underscore the need to keep these local governments prepared to protect the public health and safety.

In 2001, the Senate Local Government Committee learned that the state laws governing the mosquito abatement districts were outdated. The voters had amended the California Constitution with Propositions 13, 4, and 218. Legislators had enacted or expanded state laws on open meetings, public records, special districts' boundaries, environmental review, land use planning, and public finance. In short, the statute was in need of a serious overhaul.

The Committee set up a 20-member "Working Group on Revising the Mosquito Abatement District Law." In several lengthy meetings, the Working Group scoured each section, discarding obsolete sections, revising outdated provisions, and retaining the most useful language. That project culminated in the drafting of the new Mosquito Abatement and Vector Control District Law, enacted by the Committee's own Senate Bill 1588. The Working Group's near consensus eased the passage of SB 1588 and its signature in September 2002.

This report, Science, Service, and Statutes, records those efforts. Documenting the origins and legislative history of SB 1588 will help public officials, researchers, legal advisors, and the courts understand where the new Law came from and what its drafters and authors intended to achieve. I hope that you will find this explanation of the new Mosquito Abatement and Vector Control District Law useful.

Sincerely,

Tom Torlakson
Chair

Science, Service, and Statutes:

A Legislative History of Senate Bill 1588 and the
“Mosquito Abatement & Vector Control District Law”

September 2003

Senate Committee on Local Government, 2001-02

Senator Tom Torlakson, Chair

Senator Bob Margett, Vice-Chairman

Senator Dick Ackerman

Senator Michael J. Machado

Senator Don Perata

Senator Nell Soto

Elvia Diaz, Committee Assistant

Candace M. Carpenter, Consultant, 2002

Peter M. Detwiler, Consultant

Jennifer P. Swenson, Consultant

Mailing address:

Senate Local Government Committee

State Capitol, Room 410

Sacramento, California 95814

(916) 445-9748 office

(916) 322-0298 fax

www.sen.ca.gov/locgov

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**Science, Service, and Statutes:
A Legislative History of Senate Bill 1588 and the
Mosquito Abatement and Vector Control District Law**

All six State Senators who served on the Senate Local Government Committee in 2001-02 jointly authored Senate Bill 1588, the measure to thoroughly revise the state laws governing California's 46 mosquito abatement and vector control districts. Governor Gray Davis signed the bill into law as Chapter 395 of the Statutes of 2002. The new statute took effect on January 1, 2003.

This report documents the origins and legislative history of the new "Mosquito Abatement and Vector Control District Law," offering public officials, researchers, legal advisors, and the courts with an understanding of where the new law came from and what its drafters meant to achieve.

It was 1915 when Governor Hiram W. Johnson signed the original statute authorizing the creation of local districts to control mosquitoes. Over the next several decades, legislators added to the state laws governing mosquito abatement districts but they had not comprehensively overhauled these statutes since 1939. One result is that the districts' principal act did not reflect the many major constitutional and statutory changes. The voters amended the California Constitution with Propositions 13, 4, and 218. Voter initiatives created the Political Reform Act and changed local officials' fiscal powers. The Legislature created LAFCOs, and enacted the Ralph M. Brown Act, the Public Records Act, the California Environmental Quality Act, and several laws on special taxes and benefit assessments. The courts interpreted these statutes and applied constitutional guarantees to private property rights. Few of these changes made their way into the mosquito abatement districts' laws.

In 1987, the Senate Local Government Committee successfully rewrote the state laws governing fire protection districts (SB 515, Bergeson, 1987) and in 2001 revised the Recreation and Park District Law (SB 707, Committee on Local Government, 2001). In 2001, while the Committee was working on the recreation and park districts' principal act, the Mosquito and Vector Control Association of California approached the Committee to ask for help in modernizing the mosquito abatement districts' laws. In December 2001, the Committee's chair, Senator Tom Torlakson, appointed a Working Group on Revising the Mosquito Abatement District Law. This 20-member Working Group and its 15 advisors met five times in Sacramento to review the current law, direct the drafting of a new statute, and refine the results. The Working Group's recommendations became the basis for SB 1588, introduced by the Committee in February 2002. Moving through the legislative process, SB 1588 reached Governor Davis in late August. The Governor signed the Committee's bill into law on September 5, 2002.

Discovering Legislative Intent

Unlike the United State Congress, the California Legislature does not produce extensively detailed legislative histories for its bills. The official record consists of the bills themselves, plus the analyses prepared for the policy committees, fiscal committees, and Senate and Assembly

Floors. When interpreting statutes, the California courts rely on rules of statutory construction. One court explained these rules this way:

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

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

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

One purpose of this report is to record the efforts of the Working Group on Revising the Mosquito Abatement District Law and the Senate Committee on Local Government, so that public officials, researchers, potential litigators, and the courts may have access to the thinking that the drafters and authors invested in SB 1588.

Summary of Policies, Powers, Procedures, and Oversight

The 2002 Mosquito Abatement and Vector Control District Law differs from the 1939 statute in dozens of ways. One approach to understanding these changes is to look at the how the bill affects the districts' policy, powers, procedures, and oversight.

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

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

The 1939 law did not contain any overt statement of state policy to guide the districts. In contrast, SB 1588 opens with legislative findings and then recites statements of legislative intent (see the new Health & Safety Code §2001). Regarding vectors, the opening provisions establish the districts' four purposes:

- Surveillance.
- Protection.
- Abatement.
- Control.

These four purposes (§2001 [c]) are a recurring theme in the new Law, appearing in the statement of the districts' basic powers regarding vectors and vectorborne diseases (§2040). As used in the new Law, "vector" includes any animal that may transmit human disease or produce human discomfort, including mosquitoes, flies, other arthropods, rodents, and other vertebrates (§2002 [k]). The legislative intent language encourages the district to adapt the new Law to their own local circumstances (§2001 [d]).

Power. Responsible and effective local governments need enough -- but not too much -- power to carry out their statutory policies. Policies and powers must match. Government power can be both *fiscal* and *regulatory*. If the Legislature sets ambitious policies but fails to provide sufficient power, then administrators can't deliver the program that legislators wanted. Conversely, if the Legislature doesn't explain its policies, then public managers lack guidance on how to use government powers. But Californians and their legislators distrust powerful governments. Legislators search for balance between providing governmental powers that fulfill legitimate public policies and protecting their constituents' rights and incomes.

The Working Group spent hours scrutinizing the 1939 law and recommending changes. Some of the specific differences:

- Pay the boards of trustees' expenses and benefits but not regular stipends (§2030).
- Run surveillance programs, prevent, abate, and control vectors and vectorborne diseases (§2040).
- Participate in land use planning and environmental quality processes (§2041 [I]).
- Request inspection warrants and enter property subject to constitutional limitations (§2053).
- Abate public nuisances and recover the districts' costs with liens (§§2060-2067).
- Impose a \$1,000 a day civil penalty for failing to abate a public nuisance (§2063).
- Raise revenues with special taxes, benefit assessments, and fees (§§2080-2085).
- Borrow funds, like other local governments, for cash-flow purposes (§2074 [b]).
- Manage their own finances, similar to some other special districts (§2077).

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

SB 1588 uses a contemporary drafting format, including a modern writing style for easier reading by officials and residents, gathers together related topics for quicker reference, renumbers the entire statute, and leaves room for future amendments. To improve effective administration and political accountability, SB 1588 contains cross-references to other major statutes that apply to the districts as well as to other local governments:

- Lawsuits to validate decisions, bonds, and boundaries (§2006).
- Boundary changes under the Cortese-Knox-Hertzberg Act (§2007).
- Open meetings under the Brown Act (§2028).
- Local planning and zoning requirements (§2042).
- Joint purchasing programs with counties and the state government (§2046).
- Employee relations under the Meyers-Milias-Brown Act (§2048).
- Annual appropriations limits required by the Gann Initiative (§2072).
- Allocation of property tax revenues by county officials (§2073).
- Temporary borrowing for cash-flow purposes (§2074).
- Regular audits and annual financial reports (§2079).
- Special taxes under the Mello-Roos Act (§2081 (b)).
- Benefit assessments under the 1911, 1913, and 1915 Acts (§2083).

In addition, SB 1588 revises special procedures that apply to mosquito abatement districts:

- Forming a new district follows most of the Cortese-Knox-Hertzberg Act but does not require voter approval (§2014).
- Allows county boards of supervisors and city councils to appoint the members of the districts' boards of trustees (§2021).
- Allows the Director of the State Department of Health Services to resolve disputes between districts and other public agencies (§2055).

- Retains an exception from public nuisance abatement for flies from agricultural operations that use accepted standards and practices (§2062).
- Clarifies the districts' annual budget procedures, increasing the controls over budget reserves, including public health emergencies (§2070 and §2071).
- Allows special benefit assessments to finance vector control projects and programs, consistent with Proposition 218 (§2083).
- Allows officials to create zones within a district to provide different levels of service with different revenue sources (§§2090-2093).

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

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

SB 1588 retains the power of county supervisors and city councils to appoint the members of the mosquito abatement districts' boards of trustees (§2021). SB 1588 requires officers and employees to be bonded if they manage a district's funds (§2077 [b][3]). The bill requires stricter accounting for budgetary reserves (§2070 and §2071). SB 1588 repeats the requirement for the districts to conduct regular audits and file annual reports with the State Controller (§2079).

Other Provisions. Besides enacting a new statute for the mosquito abatement districts, SB 1588 also makes conforming changes to other state laws.

- Current law gives counties the same powers as mosquito abatement districts. SB 1588 corrects the cross-reference to the new statute (Government Code §25842.5).
- Current law lets counties transfer their vector control services to mosquito abatement districts. SB 1588 corrects the cross-reference to the new law (Health & Safety Code §101285).
- The statute implementing Proposition 218's constitutional requirements for special taxes, benefit assessments, and property-related fees defines "vector control." SB 1588 conforms that definition to the districts' new statute (Government Code §53750 [m]).
- LAFCOs cannot control special districts' internal zones. SB 1588 adds the zones of mosquito abatement and vector control districts and recreation and park districts to the Cortese-Knox-Hertzberg Act's exemption (Government Code §56036 [a][10]).
- Current law requires government employees who use pesticides for public health purposes to be certified by the State Department of Health Services as "vector control technicians." SB

1588 allows the Department to charge reasonable fees for these exams (Health & Safety Code §106925).

- SB 1588 allows the State Department of Health Services to assist mosquito abatement and vector control districts (Health & Safety Code §1116111).
- SB 1588 notes that the new statute is based on the recommendations of the Working Group on Revising the Mosquito Abatement District Law (Section 11 of SB 1588).

The Working Group

To rewrite an out-of-date state law requires detailed knowledge about the current statute as well as an appreciation of local customs and practices. A successful revision also requires a willingness to anticipate possible political objections to the recommended changes. With those objectives in mind, Senator Torlakson, the Committee chair, directed the Committee's staff to work towards a near-consensus. In December 2001, Senator Torlakson created a 20-member Working Group on Revising the Mosquito Abatement District Law consisting of:

Three district trustees:

Hon. Albert Beck, Ph.D., Butte County Mosquito and Vector Control District
 Hon. David L. Jameson, Contra Costa Mosquito and Vector Control District
 Hon. Dexter D. MacBride, Greater Los Angeles County Vector Control District

Three district managers:

Charles Dill, Placer Mosquito Abatement District
 Jack Hazelrigg, Greater Los Angeles County Vector Control District
 John Stroh, San Joaquin County Mosquito and Vector Control District

Five specialists in mosquito and vector control districts:

Charles Beesley, Ph.D., retired manager, Contra Costa Mosquito and Vector Control District
 Elizabeth Cline, legislative chair, Mosquito and Vector Control Association of California
 Bruce Eldridge, Ph.D., professor emeritus, Department of Entomology, UC Davis
 Alec C. Gerry, Ph.D., public health biologist, California Department of Health Services
 Charles Myers, retired public health biologist, California Department of Health Services

Twelve representatives of potentially affected groups:

Daniel J. Carrigg, legislative advocate, League of California Cities
 Jon Coupal, president, Howard Jarvis Taxpayers Association
 John Gamper, legislative advocate, California Farm Bureau Federation
 Ralph A. Heim, legislative advocate, Mosquito and Vector Control Association of California
 Karen Keene, legislative advocate, California State Association of Counties
 Justin Malan, executive director, California Conference of Directors of Environmental Health
 Larry A. McCarthy, executive director, California Taxpayers Association
 Elliot Mulberg, California Association of Local Agency Formation Commissions
 Christopher J. Voight, executive director, Mosquito and Vector Control Association of California

Besides these 20 members of the formal Working Group, several other knowledgeable people served as advisors, contributing research, drafting, commentary, and evaluation to the project:

Paul Antilla, Legislative Counsel Bureau
 Candace Carpenter, Senate Local Government Committee
 Frances Chacon, Assembly Local Government Committee
 Michael Cohen, Legislative Analyst's Office
 Peter Detwiler, Senate Local Government Committee
 Katie Dokken, Governor's Office of Planning and Research
 Eileen M. Eastman, California Conference of Local Health Officers
 Virginia Huber, El Dorado County Department of Environmental Management
 Jon Morgan, El Dorado County Department of Environmental Health
 Matt Paulin, State Department of Finance
 Mike Pettengill, Senate Republican Caucus Policy Staff
 Frank Ramirez, Governor's Office of Planning and Research
 Jennifer Swenson, Senate Local Government Committee
 Ken Townzen, California Department of Health Services
 William Weber, Assembly Republic Caucus Staff

As the project progressed, other interested parties contributed to the discussions:

Terrence C. Brennand, Service Employees International Union
 Ryan Broddrick, Ducks Unlimited, Inc.
 Robert C. Cline, Butte Sink Waterfowl Association
 Dolores Duran Flores, California School Employees Association
 William R. Gaines, California Wildfowl Association
 Dave Low, California School Employees Association
 Julie Oltmann, California Department of Fish and Game
 Richard P. Shanahan, Bartkiewicz Kronick & Shanahan

A Brief History of Mosquito Abatement Districts

Although the state laws on mosquito abatement districts date from 1915, the state's first efforts to control mosquitoes occurred against salt marsh mosquitoes in San Rafael in 1904 under the direction of Professor C.W. Woodworth of the University of California, Berkeley. According to a history of these efforts, "hordes of mosquitoes were causing great annoyance and lowering real estate values." In February 1905, the Burlingame Improvement Club provided \$2,000 to the UC Agricultural Experiment Station for ditches and dikes that drained tidal salt marshes along San Francisco Bay. Using techniques developed along the Panama Canal, UC personnel applied oil and "Panama Larvicide" to kill immature mosquitoes.

Reactions to disease. Thousands of cases of malaria in California resulted in 112 deaths in 1909. In 1910, specific areas of the state had malaria death rates that were significantly higher than the national rate. While the national death rate was 4.8 per 100,000, in the Shasta-Tehama-Butte area the rate was 46.3 per 100,000.

First efforts. A 1908 malaria outbreak in the Central Valley prompted the Southern Pacific Railway to sponsor a mosquito control education program by UC professor William B. Herms. Anti-malaria programs followed in 1910 in Penryn, Oroville, and Bakersfield and in Los Molinos in 1911. The California Mosquito Control Association credited the Penryn effort as “the first organized anti-malaria campaign in the United States.”

First bill. In 1913, Governor Hiram W. Johnson pocket-vetoed a bill that would have allowed communities to create “mosquito control districts” and make appointments to mosquito control boards. Authored by Assemblyman John H. Guill, Jr. (D-Oroville), Assembly Bill 1463 passed the Assembly in April 1913 but apparently ran into trouble in the Senate Committee on Public Health and Quarantine which recommended against the bill. Although Guill’s measure passed the Senate in May 1913, Governor Johnson declined to sign the bill and it did not become law. In those days, when a governor pocket-vetoed a bill, he did not have to issue a veto message that explained his reasons. A governor’s inaction simply killed a bill.

First law. Legislative success occurred in 1915 when Governor Johnson signed Assembly Bill 1565 that allowed communities to set up “mosquito abatement districts.” The author of AB 1565 was the Assembly Committee on Public Health and Quarantine, chaired by Assemblyman George Beck (D-Livermore). Signed into law as Chapter 584 of the Statutes of 1915, the measure spelled out the steps needed to form a mosquito abatement district and provided for county boards of supervisors and city councils to appoint five-member boards of trustees to govern the districts.

First districts. The first three districts formed in 1915-16 were the Marin Mosquito Abatement District, the Three Cities Mosquito Abatement District (San Mateo County), and the Kern Mosquito Abatement District. The Pulgas Mosquito Abatement District (San Mateo County) and the Oroville Mosquito Abatement District followed the next year.

Statutory revisions. In 1929, the Legislature overhauled the original 1915 statute by passing Assembly Bill 568, authored by Assemblyman Frank L. Coombs (R-Napa). Born in Napa in 1853, Coombs was an attorney with a distinguished public career which included two stints as Speaker of the Assembly (1891 and 1897), U.S. ambassador to Japan, State Librarian, U.S. Attorney for Northern California, and Member of Congress. Coombs returned to the Assembly in the 1920s. Governor C.C. Young signed AB 568 into law as Chapter 804 of the Statutes of 1929.

The California Mosquito Control Association formed in 1930 through the efforts of UC Berkeley Professor Herms and with Harold F. Gray, the manager of the Alameda County Mosquito Abatement District. Now called the Mosquito and Vector Control Association of California, the professional association continues to represent the districts and other local programs.

Codification. The bewildering complexity of California’s state laws led to a decades-long effort that systematically organized the statutes into topical codes. In 1939, legislators created the Health and Safety Code, combining hundreds of earlier laws. Senate Bill 657 was authored by Senator Frank W. Mixler (R&D-Tulare) and Senator John D. Foley (D-Santa Clara). Because of SB 657, the state laws governing the mosquito abatement districts became Chapter 5 (commencing with Section 2200) of Division 3 of the new Health and Safety Code.

By 1945, there were 25 local mosquito control agencies in California, most of them mosquito abatement districts. However, after World War II there was a “meteoric growth in the number of new districts and the expansion of existing districts,” according to Charles Myers. Myers attributed this growth and expansion to three factors:

- Fear of mosquito borne diseases returning with servicemen
- The availability and initial effectiveness of DDT
- State financial aid to local efforts, including the mosquito abatement districts.

The districts remained popular and effective even though the insecticides changed and the state stopped its subventions. By 1977-78, there were 53 mosquito abatement districts. In 1999-00, the State Controller counted 46 mosquito abatement and vector control districts.

The Revision Project

The Working Group met four times in Sacramento during 2002. On January 11 and January 18, the Working Group examined the 1939 law and recommended revisions. On March 15, the Working Group reconvened to review and improve the draft revisions. Finally, on May 23, the Working Group met again to sort out the remaining controversies over the language in SB 1588.

January 11. The Working Group’s initial meeting on January 11 convened in the State Capitol. Eleven of the Working Group’s 20 members attended. The staff of the Senate Local Government Committee had prepared a copy of the 1939 law presenting each section on a separate page, along with a simple description and an extended commentary of every section. Covering 100 pages, this “Text & Commentary” was the basis for the Working Group’s review of the 1939 law.

The Committee’s staff also gave the Working Group a “Disposition Table” that listed each section of the law, its topic, and a place to indicate what the Working Group wanted. The participants also received two memos dated January 7 and prepared by Alec Gerry, a Working Group member and a public health biologist in the Vector-Borne Disease Section of the California Department of Health Services. One memo dealt with “Certified Applicator Exam Application Fees” and the other “Vector Control Agency Inclusion in NPDES Implementation.”

The January 11 meeting started at 10:00 a.m. and lasted about six hours, including a working lunch. Following self-introductions, Peter Detwiler described his charge from Senator Torlakson: to be inclusive and draw-in all interested parties, to listen carefully and learn from others’ experiences, and to drive the Working Group to “near consensus” in developing a bill for the Committee to author. After these introductory comments, the Working Group began its examination of each section of the 1939 law. Using a rating sheet, the members assigned each section a letter grade to guide the drafting of the proposed statute. The members of the Working Group had four choices:

A = *This section is fine, just the way it reads.*

B = *This section is in pretty good shape but it needs this minor change: _____*

C = *This topic should be retained but the contents need an overhaul. It should include: _____*

D = *This section is obsolete. Repeal it.*

The Working Group members and advisors reviewed Health & Safety Code §2200 through §2270 (f) before the day's discussions ended at about 4:00 o'clock.

January 18. Returning to the State Capitol a week later on January 18, the Working Group received a memo from the Committee's staff that answered questions asked at their first meeting. They also received copies of two Attorney General's opinions. Staff from the Governor's Office of Planning and Research (OPR) distributed copies of a technical advisory piece, "Circulation and Notice Under the California Environmental Quality Act."

The members of and advisors to the Working Group resumed their scrutiny of the 1939 law with Health & Safety Code §2270 (g). They finished reviewing the statute that day.

Draft #1. After the January meetings, the Committee's staff used the Working Group's detailed advice to prepare Draft #1 of a proposed Mosquito Abatement and Vector Control District Law. The 85-page document presented the language for the new sections of the proposed Law, along with notes covering each section's "Topic, Derivation, and Comments." The Committee's staff collected similar statutory topics into thematic articles, removed obsolete language, and inserted statutory cross-references instead of repeating existing law. The material in Draft #1 fell into eight distinct articles:

General Provisions	Abatement
Formation	Finances
Board of Trustees and Officers	Alternative Revenues
Powers and Duties	Zones

As models for much of the rewriting, the Committee's staff relied on the Fire Protection District Law of 1987 (Health & Safety Code §13800, et seq.) which the Committee had revised in 1987, and the Recreation and Park District Law (Public Resources Code §5780, et seq.) which the Committee revised in 2001.

When the Committee mailed out Draft #1 on February 28, it also sent the Working Group a Source Table that identified the statutory origins of each section in Draft #1, and a Disposition Table showing where each section of the 1939 law had gone. The Committee's staff invited the Working Group members and advisors to ask themselves four questions:

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

March 15. When 13 members of the Working Group met again on March 15, it was to review Draft #1 of the proposed Mosquito Abatement and Vector Control District Law, prepared by the Committee's staff. Before the March 15 meeting, however, the Committee had already introduced the first version of SB 1588 as a "spot bill" to meet the deadline for introducing new measures. The Committee's intent was to amend its SB 1588 to insert the results of the Working Group's review.

At the March 15 meeting, the Committee's staff provided written comments from:
 William C. Hazeleur, Shasta Mosquito and Vector Control District
 Karen A. Keene, California State Association of Counties
 Robert D. Sjogren, Ph.D., Orange County Vector Control District
 John R. Rusmisl, Alameda County Mosquito Abatement District
 William Weber, Assembly Republican Caucus staff
 Larry McCarthy, California Taxpayers Association
 Daniel Carrigg, League of California Cities

Beginning at §2000 of Draft #1, Working Group and its advisors looked through the first 47 pages of language, suggesting improvements and changes. The Working Group's discussions were slower than expected because of extended conversations regarding the language on some topics, including representation on districts' boards of trustees and the districts' basic powers.

March 28. Resuming its review about two weeks later with 11 members present, the Working Group picked up at §2062. The discussions went more quickly, finishing by noon. The Committee's staff took the Working Group's requests and from them prepared Draft #2.

Draft #2. Reflecting the revisions suggested by the Working Group, on March 29 the Committee's staff prepared Draft #2 and asked for comments. The new 24-page Draft #2 differed from Draft #1 in 19 significant areas:

- Improved intent language to reflect the districts' four purposes in §2000.
- Revised definitions in §2001.
- Revised appointment process in §2022.
- Restored the shorter terms of office in §2023 and §2024.
- Deleted the language decreasing the size of boards of trustees in §2025.
- Restored the county supervisors' power to change the size of boards of trustees in §2025.
- Revised the list of officers in §2027.
- Clarified voting by the board of trustees in §2029.
- Rewrote the districts' powers to follow their four purposes in §2040.
- Revised the districts' corporate powers in §2041.
- Allowed trustees to receive benefits in §2050.
- Allowed state officials to exempt persons from certification requirements in §2052.
- Allowed districts to use inspection warrants consistent with their four purposes in §2053.
- Shifted language regarding water and nuisances in §2060.
- Deleted the power of summary abatements in §2062.
- Revised the agricultural operations exemption in §2062.
- Revised the provisions for a separate district treasurer in §2077.
- Clarified the transfer of programs from a county to a district in §101285.
- Allowed state officials to recover their examination costs in §106925.

A flurry of email messages followed the distribution of Draft #2, with Working Group members and advisors commenting on the changes. By early April, the Committee's staff settled on two significant changes, in addition to correcting drafting errors and clarifications:

- Deleted the districts’ power to adopt ordinances and issue citations that could lead to penalties for misdemeanors or infractions.
- Prohibited nuisance abatement on lands that have not been artificially altered. Many members of the Working Group wanted to allow abatement powers on unaltered lands but resistance from the participants who worked for the State Department of Health Services kept that language out of the new Law. They argued that it would be unfair to require landowners to pay for controlling a nuisance that existed through no action of their own. Further, the Working Group understood that human activity has in some way altered nearly all land in California.

These revisions formed the basis of the April 11 amendments to SB 1588.

May 23. Just before the Senate was to vote on SB 1588, other interest groups began to pay attention to the bill. The California Waterfowl Association, Ducks Unlimited, duck clubs, and the California School Employees Association raised concerns about the bill. The labor union represented workers at the Coachella Valley Mosquito and Vector Control District. Nine members of the Working Group met on May 23 to respond to their concerns. The discussion touched on six points:

- “Vector” definition.
- “Public nuisance” definition.
- Abatement powers and procedures.
- Procedures to form zones.
- Entering private property.
- Labor-management relations.

Following the Working Group’s meeting, the Committee’s staff prepared additional amendments for SB 1588. A description of the May 30 amendments appears later in this report.

The Legislative History of SB 1588

On February 13, 2002, even before the Working Group met to review Draft #1, Senator Tom Torlakson wrote to his colleagues on the Senate Local Government Committee and asked them to join as joint authors of a Committee bill to revise the mosquito abatement district law. A week later, all six Committee members joined to introduce Senate Bill 1588.

Copies of the text of each version of SB 1588, copies of the analyses prepared on the bill, and records of the Legislature’s votes on the measure are available from the website maintained by the Legislative Counsel: www.leginfo.ca.gov.

February 20 version. As introduced, SB 1588 was a merely place-holder, a “spot bill.” The introduced version of the measure simply repealed the current statute and instead inserted the title of the proposed new law. This skeletal approach was necessary to meet the February 22 deadline for legislators to introduce new bills in 2002.

April 11 version. The amendments of April 11 inserted the bill's real substance, reflecting the results of the Working Group's reviews of Draft #1 and Draft #2. SB 1588 grew from two pages to 37 pages. The previous section of this report described how the Committee's staff prepared each of the drafts and how the language changed in response to the Working Group's comments.

April 24 hearing. SB 1588 was on the agenda of the Senate Local Government Committee for its hearing on Wednesday, April 24. Before the hearing, the Committee's staff released a five-page analysis that sketched how the bill affected the Legislature's policy, power, procedures, and oversight for mosquito abatement districts. Because the bill appeared on the Committee's Consent Calendar, Senator Torlakson did not have to formally present SB 1588. Although Working Group members Becky Cline and Charlie Dill were in the audience just in case the Senators had any questions, none came up and so no witnesses offered testimony. The Committee passed its Consent Calendar, including SB 1588, on a 6 to 0 roll call vote.

May 6 version. Amended in preparation of its hearing in the Senate Appropriations Committee, SB 1588 underwent a dozen changes because of the May 6 amendments:

- Clarified a reference to Section 2291.4 of the 1939 law. The Senate Engrossing and Enrollment staff recommended this change (page 9, lines 26 and 27).
- Restored the districts' existing power to abate water that contains mosquitoes. Richard P. Shanahan, legal counsel to the Mosquito and Vector Control Association of California, requested this amendment. As explained below, this language went into the wrong location in SB 1588 (page 17, lines 11 to 14).
- Substituted "vectorborne" for "vector borne," as suggested by Bruce Eldridge who noted that the profession has accepted the compound form. The Mosquito and Vector Control Association of California also preferred this neologism (page 17, line 39; page 18, lines 1, 4, 6, and 8).
- Corrected a drafting error, changing "incident" to "incidental." The Senate Engrossing and Enrollment staff recommended this change (page 19, lines 10 and 11).
- Corrected a drafting error, changing "or" to "and," consistent with §2063 and §2065. Richard P. Shanahan, legal counsel to the Mosquito and Vector Control Association of California, requested this amendment (page 24, line 29).
- Corrected the reference to the University of California's Cooperative Extension. Working Group member Alec Gerry requested this correction (page 25, line 3).
- Clarified that a property owner's charges are not special assessments in the sense of Proposition 218, but simply charges against the property tax bill. Richard P. Shanahan, legal counsel to the Mosquito and Vector Control Association of California, requested this amendment (page 25, lines 32, 33, 39, and 40; page 26, line 1).
- Corrected a drafting error, referring to the county "treasury." The Senate Engrossing and Enrollment staff recommended this change (page 29, line 1).
- Inserted references to the current statutes on local officials' investment powers. The State Treasurer's Office requested this amendment (page 30, lines 18 to 21).
- Inserted references to the State Treasurer's Local Agency Investment Fund. The State Treasurer's Office requested this amendment (page 30, lines 24 to 26).
- Corrected a major oversight in the April 11 version which neglected to repeal the current laws governing mosquito abatement districts. The repeal was in the February 20

version of the bill but the April 11 version skipped over it. The Senate Engrossing and Enrollment staff recommended this change (page 35, lines 1 and 2).

- Moved the statutory location for state officials' fee language, effectively placing the resulting revenue in an existing special account that was created for similar purposes. Working Group member Alec Gerry requested this amendment (page 36, lines 14 to 17, line 19, lines 26 to 31).

May 8 version. Richard P. Shanahan noticed that the May 6 amendments placed the language relating to water and insect breeding places in §2029 (trustees' decisions) instead of in §2002 ("public nuisance" definition). The May 8 amendments moved the language from §2029 to §2002 (page 9, lines 8 to 10; page 17, lines 15 to 18). However, as explained below, the May 8 language did not achieve Shanahan's intent.

May 13 hearing. Because SB 1588 affected the duties of the State Department of Health Services, the Senate Appropriations Committee had to hear the bill. That Committee's staff prepared a one-page analysis of the measure. Senator Torlakson presented the amended bill at the Committee's hearing. Absent any opposition, the Senate Appropriations Committee passed the bill by a vote of 12 to 0.

Senate approval. To prepare for the Senate's action on SB 1588, the Office of Senate Floor Analyses released a four-page analysis that generally followed the one prepared by the Senate Local Government Committee's staff. Just before the Senate was to vote on SB 1588, other interest groups began to pay attention to the bill. The California Waterfowl Association, Ducks Unlimited, and duck clubs in the Sacramento Valley worried how the districts would use their nuisance abatement powers against landowners who provide duck habitat. Local controversies between some of the landowners and mosquito abatement districts in Butte and Glenn counties sparked their interest in SB 1588. Because no "no" votes had been cast against the bill in either the policy committee or in the fiscal committee and because there was no recorded opposition to the measure, the Secretary of the Senate's staff proposed to place the bill on the Senate's Special Consent Calendar. Approached by duck club representatives, the Senate Republican Caucus objected. Therefore, on May 20, Senator Torlakson presented SB 1588 on the Senate Floor and the roll call vote to pass the bill was 35 to 0, sending the bill to the Assembly.

May 30 amendments. To prepare SB 1588 for its hearing in front of the Assembly Local Government Committee, the bill received seven more amendments based on the Working Group's May 23 meeting with the duck clubs and labor groups:

- Added double-jointing language, picking up additional amendments to Government Code §53750 if both SB 1588 and SB 1961 (Polanco, 2002) became law (page 5, lines 6 to 40; page 6; page 7, lines 1 to 24; page 39, lines 31 to 37).
- Rewrote the "public nuisance" definition as a three-part definition that covered property, water, and activity. Richard P. Shanahan, legal counsel to the Mosquito and Vector Control Association of California, requested this amendment which the Working Group discussed at its May 23 meeting (page 11, lines 25 to 39; page 25, lines 36 to 40).
- Deleted the language that would have allowed districts' boards of trustees to delegate their administrative or adjudicatory powers to employees. The California School

Employees Association which represents workers at some districts requested this amendment which the Working Group discussed at its May 23 meeting (page 20, lines 4 to 6).

- Clarified the districts' power to employ personnel. This change came out of the Working Group's May 23 meeting with the California School Employees Association (page 21, lines 11 and 12).
- Acknowledged the constitutional limits on district employees who want to enter private property. This change came out of the Committee staff's concern about the way in which recent court decisions affect the bill's proposed language. The Working Group discussed this issue at its May 23 meeting (page 24, lines 34 and 35).
- Required 10 days' notice to property owners before a district's nuisance abatement hearing. This change came out of the Working Group's May 23 meeting with waterfowl interests (page 26, line 35).
- Increased the notice period from 20 days to 45 days before a district's hearing to form a zone. This change came out of the Working Group's May 23 meeting with waterfowl interests (page 36, line 24).

June 10 version. Demonstrating that no drafting exercise is ever perfect, the June 10 amendments corrected three typographical errors in SB 1588. With this last round of fine-tuning, the bill was complete.

June 19 hearing. The Assembly Local Government Committee's six-page bill analysis prepared for its June 19 hearing did not raise any policy questions about SB 1588. In the absence of any recorded opposition, the Committee placed the bill on its Consent Calendar. Accordingly, Senator Torlakson did not appear at the hearing and the Committee heard no testimony. The Committee moved its Consent Calendar, including SB 1588, by a vote of 11 to 0, advancing the bill to the Assembly Appropriations Committee.

August 7. The Assembly Appropriations Committee's staff prepared a one-page analysis of SB 1588 before the Committee's August 8 hearing. Once again, because there was no opposition, the bill appeared on the Committee's Consent Calendar and passed by a vote of 23 to 0. The Committee's action sent SB 1588 to the Assembly Floor.

Assembly approval. On August 15, by the vote of 78 to 0, the Assembly passed its Consent Calendar, including SB 1588. Following its custom and practice, the Assembly did not debate any of the bills on the Consent Calendar.

Senate concurrence. Because of the June 10 and June 19 amendments in the Assembly, SB 1588 came back to the Senate for concurrence in those amendments. Once again, the Office of Senate Floor Analyses prepared a review of the bill. The five-page analysis briefing described how the Assembly amendments had changed the measure. Because no "no" votes had ever been cast against the bill and because there was no recorded opposition to SB 1588, the measure qualified for the Senate's Special Consent Calendar. The Senate Floor vote on August 22 was 39 to 0. That action moved SB 1588 to the Governor for his review and signature.

Supporters. Three statewide associations, 38 special districts, and one city formally endorsed SB 1588. Formal letters of support came from the California Association of Local Agency Formation Commissions, the California Conference of Directors of Environmental Health, and the Mosquito and Vector Control Association of California. The 38 mosquito abatement and vector control districts that wrote in support of the bill represented the overwhelming majority of those districts. The City of Fountain Valley also supported the measure. There was never any recorded opposition to SB 1588.

Governor's approval. Following the standard practice, SB 1588 went through the formal enrollment procedures and reached Governor Gray Davis on August 28, just as the legislative session was ending. On behalf of the members of the Senate Local Government Committee, on August 26 Senator Torlakson sent a two-page letter to Governor Davis, asking him to sign the Committee's bill. He enclosed a four-page summary of what he called the bill's "key provisions." Senator Torlakson's letter said that the Working Group and the Committee had "made extensive efforts to invite others' comments and then to respond to concerns." His letter concluded:

California's mosquito abatement districts have a long and successful record of applying science to counter public health threats. Their early battles against mosquito-borne malaria and the mid-century struggles with encephalitis demonstrated the value of local governments that were well-organized and properly funded. These districts developed effective programs for the surveillance, prevention, abatement, and control of mosquitoes and other vectors. The recent invasions by vectors such as the Asian tiger mosquito and by pathogens such as the West Nile virus underscore the need to keep these local governments prepared to protect the public health and safety. The ability of communities to take a uniform statewide law and adapt it to fit local conditions and circumstances has always been important. I am convinced that SB 1588 furthers that approach.

On September 5, Governor Gray Davis signed SB 1588. The next day the Governor's office issued a press release that declared:

This law gives mosquito abatement and vector control districts the tools they need to stand as guardians of epidemics, public health emergencies, and economic disasters. California needs this additional protection to help prevent the spread of diseases carried by mosquitoes.

On September 6, Secretary of State Bill Jones chaptered the Committee's bill as Chapter 395 of the Statutes of 2002. The newly enacted Mosquito Abatement and Vector Control District Law became effective on January 1, 2003.

Text and Commentary

CALIFORNIA HEALTH AND SAFETY CODE

Division 3. Pest Abatement

Chapter 1. MOSQUITO ABATEMENT AND VECTOR CONTROL DISTRICTS

Article 1. General Provisions

2000. This chapter shall be known and may be cited as the Mosquito Abatement and Vector Control District Law.

Topic, Derivation, and Comments: Name. New section.

This section gives the new statute a formal name, which the 1939 law lacked.

2001. (a) The Legislature finds and declares all of the following:

(1) California's climate and topography support a wide diversity of biological organisms.
 (2) Most of these organisms are beneficial, but some are vectors of human disease pathogens or directly cause other human diseases such as hypersensitivity, envenomization, and secondary infections.

(3) Some of these diseases, such as mosquito-borne viral encephalitis, can be fatal, especially in children and older individuals.

(4) California's connections to the wider national and international economies increase the transport of vectors and pathogens.

(5) Invasions of the United States by vectors such as the Asian tiger mosquito and by pathogens such as the West Nile virus underscore the vulnerability of humans to uncontrolled vectors and pathogens.

(b) The Legislature further finds and declares:

(1) Individual protection against the vectorborne diseases is only partially effective.

(2) Adequate protection of human health against vectorborne diseases is best achieved by organized public programs.

(3) The protection of Californians and their communities against the discomforts and economic effects of vectorborne diseases is an essential public service which is vital to public health, safety, and welfare.

(4) Since 1915, mosquito abatement and vector control districts have protected Californians and their communities against the threats of vectorborne diseases.

(c) In enacting this chapter, it is the intent of the Legislature to create and continue a broad statutory authority for a class of special districts with the power to conduct effective programs for the surveillance, prevention, abatement, and control of mosquitoes and other vectors.

(d) It is also the intent of the Legislature that mosquito abatement and vector control districts cooperate with other public agencies to protect the public health, safety, and welfare. Further, the Legislature encourages local communities and local officials to adapt the powers and procedures provided by this chapter to meet the diversity of their own local circumstances and responsibilities.

Topic, Derivation, and Comments: Legislative Intent. New section. Derived from Public Resources Code §5780.

This section formally expresses the Legislature's intent in enacting the new Law. The 1939 law lacked any formal recitation of legislative intent. This four-part preamble: (a) notes the dangers posed by vectors and diseases, (b) notes the need for public action and the districts' historic role, (c) declares basic legislative intent, and (d) recognizes the importance of interagency cooperation and local adaptation.

Subdivisions (a) and (b) reflect the recommendations of Bruce Eldridge, a Working Group member and UC Davis entomology professor emeritus. Eldridge developed the recurring four-part theme of surveillance, prevention, abatement, and control. Subdivisions (c) and (d) are derived from Public Resources Code §5780 (b).

2002. As used in this chapter:

(a) “Abate” means to put an end to a public nuisance, or to reduce the degree or the intensity of a public nuisance.

(b) “Board of trustees” means the legislative body of a district.

(c) “City” means any city, whether general law or chartered, including a city and county, and including any city the name of which includes the word “town.”

(d) “Control” means to prevent or reduce vectors.

(e) “Department” means the State Department of Health Services.

(f) “District” means any mosquito abatement and vector control district created pursuant to this chapter or any of its statutory predecessors.

(g) “Principal county” means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district at the time of formation.

(h) “Property” means land and improvements, and includes water.

(i) “Public agency” means any state agency, board, or commission, including the California State University and the University of California, any county, city and county, city, regional agency, school district, special district, redevelopment agency, or other political subdivision.

(j) “Public nuisance” means any of the following:

(1) Any property, excluding water, that has been artificially altered from its natural condition so that it now supports the development, attraction, or harborage of vectors. The presence of vectors in their developmental stages on a property is prima facie evidence that the property is a public nuisance.

(2) Any water that is a breeding place for vectors. The presence of vectors in their developmental stages in the water is prima facie evidence that the water is a public nuisance.

(3) Any activity that supports the development, attraction, or harborage of vectors, or that facilitates the introduction or spread of vectors.

(k) “Vector” means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including but not limited to, mosquitoes, flies, mites, ticks, other arthropods, and rodents and other vertebrates.

(l) “Voter” means a voter as defined by Section 359 of the Elections Code.

Topic, Derivation, and Comments: Definitions. These statutory definitions apply throughout the entire chapter.

Subdivision (a) is new and based on a dictionary definition of “abate.” Working Group member Alec Gerry recommended adding this definition.

Subdivision (b) is based on §2200 (a) in the 1939 law.

Subdivision (c) is based on §2200 (b) in the 1939 law and derived from the more inclusive definition in Public Resources Code §5780.1 (b).

[THE COMMENTARY CONTINUES ON THE NEXT PAGE]

Commentary on §2002, continued from the previous page...

Subdivision (d) is new.

Subdivision (e) is new. OPR's Katie Dokken recommended adding this definition.

Subdivision (f) is based on §2200 (c).

Subdivision (g) is new and derived from Government Code §56066, the definition that appears in the Cortese-Knox-Hertzberg Act.

Subdivision (h) is based on §2200 (d) with editing for clarity. It leaves out the cross-reference to the Pest Abatement District Law because no one could figure out why it helped the definition.

Subdivision (i) is new and based on the CEQA definition in Public Resources Code §21063. The Working Group specifically included the references to the California State University and the University of California. The Working Group wanted to be clear that the statewide university systems were not excluded from the districts' relationships with state agencies.

Subdivision (j) is based on §2200 (e) and substantial discussions within the Working Group and amendments to SB 1588. Based on the Working Group's meeting on May 23, the amendments of May 30 converted this language into a three-part definition: place, water, and activity. This definition omits the agricultural practices exceptions in the former law. That topic is now in §2062 of the new Law. The Working Group requested (j)(3) to include human activities that are not associated with a specific property or water body but may be a nuisance. For example, improper fumigation of shipping containers could import mosquitoes into California. The activity (improper fumigation) could be a nuisance even if the property (the container) was not itself a nuisance.

Subdivision (k) is based on §2200 (f). After much discussion within the Working Group, the resulting language continues to focus on animals and not the broader concept of "biological organisms" as advocated by some. Note that the 1939 law excluded "domesticated animals" but this language omits that exclusion. Therefore, domesticated animals can be vectors.

Subdivision (l) is new and derived from Public Resources Code §5780.1 (i).

2003. (a) This chapter provides the authority for the organization and powers of mosquito abatement and vector control districts. This chapter succeeds the former Chapter 5 (commencing with Section 2200) as added by Chapter 60 of the Statutes of 1939, as subsequently amended, and any of its statutory predecessors.

(b) Any mosquito abatement and vector control district formed pursuant to the former Chapter 5 (commencing with Section 2200) or any of its statutory predecessors which was in existence on January 1, 2003, shall remain in existence as if it had been organized pursuant to this chapter. Any zone of a mosquito abatement and vector control district formed pursuant to the former Section 2291 to Section 2291.4, inclusive, and any of their statutory predecessors which was in existence on January 1, 2003, shall remain in existence as if it had been formed pursuant to this chapter.

(c) Any indebtedness, special tax, benefit assessment, fee, election, ordinance, resolution, regulation, rule, or any other action of a district taken pursuant to the former Chapter 5 (commencing with Section 2200) or any of its statutory predecessors which was taken before January 1, 2003, shall not be voided solely because of any error, omission, informality, misnomer, or failure to comply strictly with this chapter.

Topic, Derivation, and Comments: Succession. New section. Derived from Public Resources Code §5780.3.

Subdivision (a) is derived from Public Resources Code §5780.3 (a). This language makes it clear that the new Law is the successor to the 1939 law.

Subdivision (b) is derived from Public Resources Code §5780.3 (b). This language makes it clear that districts and their zones formed under the 1939 law (or the earlier statutes) continue to exist under the new Law.

Subdivision (c) is derived from Public Resources Code §5780.3 (c). This language makes it clear that districts' actions taken under the 1939 law (or the earlier statutes) continue to exist under the new Law. Because the districts don't have the power to issue general obligation bonds, the language substitutes "indebtedness" to protect any debts that a district may owe.

2004. This chapter is necessary to protect the public health, safety, and welfare, and shall be liberally construed to effectuate its purposes.

Topic, Derivation, and Comments: Constitutional Basis and Liberal Construction. New section. Derived from Public Resources Code §5780.5.

If someone sues a district for stretching its statutory authority, this language will be useful in defending the district's actions. This approach is consistent with the Legislature's desire to set up districts with enough power to serve local communities and adapt to local circumstances.

2005. If any provision of this chapter or the application of any provision of this chapter in any circumstance or to any person, city, county, special district, school district, the state, or any agency or subdivision of the state including the California State University and the University of California is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this chapter are severable.

Topic, Derivation, and Comments: Severability. New Section. Derived from Public Resources Code §5780.7.

If a court finds that some piece of the new Law is invalid, the rest of the law remains on the books. The Working Group specifically included the references to the California State University and the University of California, just as in the definition of “public agency” in §2002 (i).

2006. (a) Any action to determine the validity of either the organization, or any action, of a district shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(b) Any judicial review of an action taken pursuant to this chapter shall be conducted pursuant to Chapter 2 (commencing with Section 1084) of 1 of Part 3 of the Code of Civil Procedure.

Topic, Derivation, and Comments: Legal Challenges. Based on §2280.1 and derived from Public Resources Code §5780.9.

Subdivision (a) is new and derived from Public Resources Code §5780.9. The 1939 law lacked a deadline or statute of limitations for filing lawsuits that challenge a district's actions. By cross-referencing Code of Civil Procedure §860, this language relies on the commonly used deadline of 60 days.

Subdivision (b) is based on §2280.1 which sets the Code of Civil Procedure §1094.5 as the standard of judicial review for the districts' administrative decisions. The 1939 law was silent on the standard of judicial review for a board of trustees' legislative decisions. The usual standard for reviewing legislative actions is Code of Civil Procedure §1084. Instead of listing separate standards of review for separate types of decisions, this language provides a general reference to the chapter in the Code of Civil Procedure that contains both standards. In other words, both CCP §1084 and CCP §1094.5 are located in Chapter 2 and so both are covered by this language.

2007. (a) Except as provided in this section, territory, whether incorporated or unincorporated, whether contiguous or noncontiguous, may be included in a district. Territory that is already within a mosquito abatement and vector control district formed pursuant to this chapter shall not be included within another mosquito abatement and vector control district.

(b) Except as provided in this chapter, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code, shall govern any change of organization or reorganization of a district. In the case of any conflict between that division and this chapter, the provisions of this chapter shall prevail.

(c) A district shall be deemed an “independent special district,” as defined by Section 56044 of the Government Code.

Topic, Derivation, and Comments: Area and Boundaries.

Subdivision (a) is based on §2210 and §2330 (a), and derived from Public Resources Code §5781. This language clearly identifies which territory can be included in a district. The language omits the requirement that a district must have at least 100 inhabitants, leaving the decision of how many residents to the local agency formation commission (LAFCO). The language is consistent with the 1949 Attorney General’s opinion that acknowledged that a district may contain incorporated territory (14 Ops.Cal.Atty.Gen. 236, 237).

Subdivision (b) is based on the former Article 6 (Annexation) and the former Article 7 (Consolidation), and derived from Public Resources Code §5781.1. This language clearly assigns all boundary change proposals to the Cortese-Knox-Hertzberg Act, the statute that creates local agency formation commissions (LAFCOs) and regulates the boundaries of cities and special districts. This section completes the 1965 effort to shift the boundary provisions of the 1939 law to LAFCOs’ control. See the former Article 6.5 (Withdrawal), the former Article 8 (Dissolution), and the former Article 9 (Changes in Common Boundary) that the Legislature repealed in 1965. This language supercedes the provisions of the 1939 law that required the consent of the underlying county board of supervisors or city council before a district could annex territory (§2220, §2330 [a] and §2331). LAFCOs and other special districts do not need the permission of cities or counties before they annex territory.

Subdivision (c) is new. Representatives of independent special districts can be members of the local agency formation commission (LAFCO) (Government Code §56332). Independent special districts also share the cost of the LAFCO’s budget (Government Code §56381 [b]). The Cortese-Knox-Hertzberg Act defines “independent special district” to include special districts with legislative bodies composed of either directly elected members or members who have been appointed to fixed terms. Mosquito abatement and vector control districts fit the latter requirement. Because most independent special districts have directly elected governing boards, some observers forget that districts with boards appointed to fixed terms are also independent special districts. This language is a statutory reminder of that qualification.

Article 2. Formation

2010. A new district may be formed pursuant to this article.

Topic, Derivation, and Comments: Formation Authority. Based on §2201 (b) & (c) and §2210, and derived from Public Resources Code §5782.

This language formally signals the start of the article that lays out the statutory procedures for forming a new district. Subdivision (c) of §2201 in the 1939 law expressly exempted district formations from the “District Organization Law” (formerly Government Code §58500, et seq.). Because the Legislature repealed that statute in 1988, there’s no longer any need to refer to it.

2011. (a) A proposal to form a new district may be made by petition. The petition shall do all of the things required by Section 56700 of the Government Code. In addition, the petition shall:

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

(2) Propose a name for the district.

(3) Specify the size of the initial board of trustees and the method of their appointment.

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

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

Topic, Derivation, and Comments: Petitions and Signatures.

Subdivision (a) based on §2211 and §2212, and derived from Public Resources Code §5782.1 (a). The Cortese-Knox-Hertzberg Act contains the detailed procedures for forming new districts and this language incorporates those provisions by reference. Note that the petitions must explain how the proposed district will finance its operations.

Subdivision (b) derived from Public Resources Code §5782.1 (b). The language tells the petitioners that they must comply with the petition requirements of the Cortese-Knox-Hertzberg Act.

Subdivision (c) based on §2211 and derived from Public Resources Code §5782.1 (c). However, unlike the 1939 law, this language raises the threshold in two ways. First, the number of signatures increases from 10% to 25%. Second, the base widens from the number of votes cast for governor in the last election to the number of registered voters in the proposed new district. This base is identical to the base used by petitions to form new cities, community services districts, fire protection districts, and recreation and park districts.

2012. (a) Before circulating any petition, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for forming the district and the methods by which the district will be financed. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the territory proposed to be included in the district. If the territory proposed to be included in the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

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

“Notice of Intent to Circulate Petition

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

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

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

Topic, Derivation, and Comments: Notice of Intention. Based on §2212 and §2213, and derived from Public Resources Code §5782.3.

Before the proponents can circulate the formation petition, they must publicly state their intentions and file a statement with LAFCO. Note that the requirements in this language are more detailed than a similar requirement in the Cortese-Knox-Hertzberg Act (Government Code §56700.4); this language prevails.

2013. (a) A proposal to form a new district may also be made by the adoption of a resolution of application by the legislative body of any county or city which contains the territory proposed to be included in the district. Except for the provisions regarding the signers, signatures, and the proponents, a resolution of application shall contain all of the matters specified for a petition in Section 2011.

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

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

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

Topic, Derivation, and Comments: Application by Resolution. Based on §2215.5 and derived from Public Resources Code §5782.5.

Any city or county that contains territory in the proposed new district can initiate the formation procedures by adopting a resolution after a noticed public hearing. The 1939 law allowed only a county board of supervisors to initiate by resolution; this language allows either the county supervisors or a city council.

2014. (a) Once the proponents have filed a sufficient petition or a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5 of the Government Code.

(b) If the local agency formation commission approves the proposal for the formation of a district, then, notwithstanding Section 57007 of the Government Code, the commission shall proceed pursuant to Part 4 (commencing with Section 57000) of Division 3 of Title 5 of the Government Code.

(c) Notwithstanding Section 57075 of the Government Code, the local agency formation commission shall take one of the following actions:

(1) If a majority protest exists in accordance with Section 57078, the commission shall terminate proceedings.

(2) If no majority protest exists, the commission shall either:

(A) Order the formation without an election.

(B) Order the formation subject to the approval by the voters of a special tax or the approval by the property owners of a special benefit assessment.

(d) If the local agency formation commission orders the formation of a district pursuant to subparagraph (B) of paragraph (2) of subdivision (c), the commission shall direct the board of supervisors to direct county officials to conduct the necessary elections on behalf of the proposed district.

Topic, Derivation, and Comments: LAFCO Proceedings.

The 1939 law (§§2210-2226) did not recognize the 1963 legislation that created LAFCO's power to review the formation of new special districts. The Cortese-Knox-Hertzberg Act clearly gives LAFCO the power to approve or disapprove of the formation of all new special districts (Government Code §56375 [a]). This language meshes the two statutes.

Subdivision (a) directs LAFCO to proceed with the formation proposal once there is a valid petition or resolution of application. Derived from Public Resources Code §5782.7 (a).

Subdivision (b) directs LAFCO to proceed with the formation procedures if LAFCO approves the formation proposal. Derived from Public Resources Code §5782.7 (a). The Working Group rejected draft language derived from Public Resources Code §5782.7 (b) and (c) that would have prohibited LAFCO from approving the formation of a proposed district unless LAFCO determined that the district would have sufficient revenues.

[THE COMMENTARY CONTINUES ON THE NEXT PAGE]

Commentary on §2014, continued from the previous page...

Subdivision (c) is new language that is needed because there is no formation election. This language substitutes for Government Code §57075.

Subdivision (d) is new language that tells county officials to conduct the tax election or the assessment proceedings because the district has yet to be formed. This provision is not in the Recreation and Park District Law and the Nevada County LAFCO says that it would have helped them. Derived from Government Code §50077 (c). If the formation succeeds, the new district pays the county's costs; if it fails the county must absorb the costs (Government Code §57150 [b]).

Article 3. Boards of Trustees and Officers

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.

Topic, Derivation, and Comments: Board of Trustees. New section. Derived from Public Resources Code §5784 (a).

Not only does this language clearly assign governance to the board of trustees, it also distinguishes the board's role in making policy from the staff's role to implement the board's policies. This statutory distinction is important to avoid situations where a board might micromanage district business and to avoid situations where the staff might usurp the board's policy role. This language should be read together with §2041 (h) that tells the trustees that they can define their employees' duties.

The Working Group was emphatic that the new Law continue to refer to the members of a district's governing board as "trustees" and not "directors." Those who govern hold a position of public trust to protect the public's health safety, and welfare. They do not direct the operations of a public enterprise. The definition of a "board of trustees" in §2002 (b) also reflects this choice.

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 which 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 which 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 which is located in whole or 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 which 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 which 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 which 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.

Topic, Derivation, and Comments: Appointment of Initial Board of Trustees. Based on §2240.

The Working Group wanted to keep the current method of appointing boards of trustees. Note that the 1939 law gave the additional appointments to the “board of supervisors of the county in which the greater area of the district is located,” while this language uses the more standard concept of “principal county.” As defined in the proposed §2002 (g), “principal county” is the county that contains more of the district’s assessed value. There may be a difference between “greater area” and “assessed value.”

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.

Topic, Derivation, and Comments: Trustees' Qualifications.

Subdivision (a) based on §2243.

Subdivision (b) based on §2242.

Subdivision (c) based on §2244.5. The Working Group had vigorous discussions about whether city councilmembers, county supervisors, and city and county employees should sit as trustees. The Working Group finally settled on this language based on §2244.5, which the Legislature added in 1996. Note that this language does not permit a county supervisor to sit on a district's board of trustees.

Subdivision (d) is new. This language encourages but does not require the appointment of trustees with backgrounds that contribute to governing the districts.

Subdivision (e) is new, derived from Government Code §56325.1, the statutory admonition to LAFCO commissioners in the Cortese-Knox-Hertzberg Act. This language requires the trustees to act in the public interest, and not solely in the interest of their appointing authorities.

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.

Topic, Derivation, and Comments: Initial Board of Trustees.

Subdivision (a) is new and derived from Public Resources Code §5783.

Subdivision (b) based on §2247. Note that first meeting is at least 15 days after the 30-day deadline for appointing trustees set by §2021. That is, $15 + 30 = 45$ days.

Subdivision (c) based on §2245 and derived from Public Resources Code §5783.13 (b).

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.

Topic, Derivation, and Comments: Trustees' Terms of Office.

Subdivision (a) is based on §2245 (c). The Working Group rejected draft language that would have required four-year terms, preferring to keep the flexibility of either two- or four-year terms. Because there is no way to “recall” the persons appointed to fixed terms, a county board of supervisors or a city council may prefer to appoint people to the shorter, two-year terms. If a person does not perform as the appointing authority wants, the wait to replace that person is shorter. Just like the 1939 law, the trustees serve for fixed terms and there is no provision for city councils or county supervisors to remove their appointed trustees during their fixed terms of office.

Subdivision (b) is based on §2246 and derived from Public Resources Code §5784.3 (c). Government Code §1779 is the standard method for filling vacancies on special districts' governing boards that have appointed members. Government Code §1770 explains when an office becomes vacant, covering a dozen contingencies (e.g., death, resignation, convictions). The language that allows the new appointee to “fill the balance of the unexpired term” comes from Government Code §1780 (a).

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 designated shall continue to serve until his or her term of office expires.

Topic, Derivation, and Comments: Changing the Size of the Board of Trustees. Based on §2240 (e).

The 1939 law allowed a county board of supervisors to increase or decrease the membership of the board of trustees if the district's trustees ask for the change. This language instead requires the county supervisors to change the board's size if the trustees ask for the change.

The Working Group rejected draft language that would have allowed the underlying city councils and county boards of supervisors to trigger changes in the size of the board of trustees.

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 which time the number of members of the board of trustees is greater than the number determined by the local agency formation commission, the membership of the board of trustees shall be reduced by one member.

Topic, Derivation, and Comments: LAFCOs' Role. Based on §2240.1.

In 1996, when the Legislature gave LAFCOs the power to expand the size of districts' boards to accommodate the politics of consolidations and reorganizations, it was assumed that all districts had five-member boards. Because many districts have much larger boards, this language allows a LAFCO to increase or decrease the size of the successor district's board. The cross-references link this language to the provisions of the Cortese-Knox-Hertzberg Act that allow a LAFCO to impose terms and conditions on consolidations and reorganizations.

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.

Topic, Derivation, and Comments: Officers.

Subdivisions (a) and (b) based on §2247 and derived from Public Resources Code §5784.7 (a) and (b). This language also allows the trustees to create other officers.

Subdivision (c) is based on §2310 and derived from Public Resources Code §5784.7 (d). The cross-referenced §2077 allows a district to manage its own funds, independently of the county treasurer.

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.

Topic, Derivation, and Comments: Meetings. Based on §2250, §2251, and §2252, and derived from Public Resources Code §5784.11.

The 1939 law required the districts to hold regular meetings, give notice, and open them to the public. This language makes it clear that the districts must comply with the entire Brown Act.

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.

Topic, Derivation, and Comments: Trustees' Decisions.

Subdivision (a) based on §2253 and derived from Public Resources Code §5784.13 (a).

Subdivision (b) is new. A 1972 Attorney General's opinion held that the "prevailing rule as respects the number of votes required for action by a collective body is that in the absence of a contrary statutory provision, a majority of a quorum constituted of a simple majority of a collective body is empowered to act for the body" (55 Ops.Cal.Atty.Gen. 26, 27 [1972]).

The Working Group noted that the 1939 law was silent on the vote required for the trustees to act. Therefore, subdivision (b) reflects the former law.

The Working Group also noted that the large size of some boards of trustees makes it hard to establish a quorum; with a bare quorum, even a few dissenting votes can block decisions. Nevertheless, many --- if not most --- special district laws require a majority vote of the total membership of the governing board. For examples, see:

Government Code §25005 for county boards of supervisors.

Government Code §61225 for community services districts.

Health & Safety Code §13856 (b) for fire protection districts.

Public Resources Code §5784.13 (c) for recreation and park districts.

Water Code §30525 for county water districts.

However, at least three other sections of the new Law specifically provide for higher standards for the trustees' votes in certain circumstances:

§2043 (b) for name changes.

§2071 (c) for budget transfers.

§2071 (d) to discontinue budget reserves.

[THE COMMENTARY CONTINUES ON THE NEXT PAGE]

Commentary on §2029, continued from the previous page...

Subdivision (c) is new and derived from Public Resources Code §5784.13 (b).

Subdivision (d) is new and derived from Public Resources Code §5784.13 (d). Also see §2043 (c) that explains the conditions for disposing of records.

Subdivision (e) is based on §2250 and derived from Public Resources Code §5784.13 (e).

After discussions at its May 23 meeting, the Working Group agreed to eliminate a proposed subdivision (f) that would have allowed district trustees to delegate their non-policy making functions to their employees. The California School Employees Association, a labor union representing the Coachella Valley Mosquito and Vector Control District's workers, objected to that provision. Union officials worried that a board of trustees could use that language to delegate a grievance hearing to its district manager who might be the object of the employee's grievance. The May 30 amendments removed subdivision (f) from this section.

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.

Topic, Derivation, and Comments: Trustees' Compensation.

Subdivision (a) is based on §2248. The Working Group wanted to preserve the concept of uncompensated public service. Nevertheless, districts can still provide fringe benefits to their trustees; see §2050.

Subdivision (b) is based on §2248. A trustee can receive either itemized reimbursements or a monthly allotment. The Working Group wanted to add the last sentence to clearly allow trustees to forego any payments; derived from Public Resources Code §5784.15 (d).

Subdivision (c) is based on §2249. The Working Group wanted this language to be clearly permissive, removing "shall" from the 1939 law.

Article 4. Powers

2040. Within the district's boundaries or in territory that is located outside the district from which vectors and vectorborne diseases may enter the district, a district may do all of the following:

(a) Conduct surveillance programs and other appropriate studies of vectors and vectorborne diseases.

(b) Take any and all necessary or proper actions to prevent the occurrence of vectors and vectorborne diseases.

(c) Take any and all necessary or proper actions to abate or control vectors and vectorborne diseases.

(d) Take any and all actions necessary for or incidental to the powers granted by this chapter.

Topic, Derivation, and Comments: District Programs. Based on §2270 and §2291.

This language lists the districts' substantive powers, following the four-part theme found in the legislative intent statement in §2001 for surveillance, prevention, abatement, and control.

Subdivision (a) is based on §2291.

Subdivision (b) is new.

Subdivision (c) is based on §2270 (a) and (b), and §2291.

Subdivision (d) is based on §2270 (a) and (n).

2041. A district shall have and may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this chapter, including, but not limited to, the following powers:

- (a) To sue and be sued.
- (b) To acquire by purchase, eminent domain, or other lawful means, any real property within the district or any personal property which may be necessary or proper to carry out the purposes and intent of this chapter.
- (c) To sell, lease, or otherwise dispose of any real or personal property. Every sale of property shall be to the highest bidder. The board shall publish notice of the sale pursuant to Section 6066 of the Government Code. A board of trustees may exchange equivalent properties if the board determines that the exchange is in the best interests of the district.
- (d) To donate any surplus real or personal property to any public agency or nonprofit organization.
- (e) To purchase the supplies and materials, employ the personnel, and contract for the services that may be necessary or proper to carry out the purposes and intent of this chapter.
- (f) To build, repair, and maintain on any land the dikes, levees, cuts, canals, or ditches that may be necessary or proper to carry out the purposes and intent of this chapter.
- (g) To contract to indemnify or compensate any property owner for any injury or damage necessarily caused by the use or taking of real or personal property for dikes, levees, cuts, canals, or ditches.
- (h) To engage necessary personnel, to define their qualifications and duties, and to provide a schedule of compensation for the performance of their duties.
- (i) To engage counsel and other professional services.
- (j) To adopt a seal and alter it at pleasure.
- (k) To provide insurance pursuant to Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.
- (l) To 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 the purposes and intent of this chapter.
- (m) To take any and all actions necessary for, or incident to, the powers expressed or implied by this chapter.

[THE COMMENTARY APPEARS ON THE NEXT PAGE]

Topic, Derivation, and Comments: Corporate Powers. Derived from §2270. This language lists the districts’ corporate powers.

Subdivision (a) is new and derived from Public Resources Code §5786.1 (a).

Subdivision (b) is based on §2270 (d). The phrase “any real property ... or personal property” is broad enough to cover interests in real property, such as access easements, rights of way, mineral rights, or other forms of property rights. Note that this language applies only to real property located within the district’s boundaries. This language is consistent with *Skreden v. Superior Court In and For San Mateo Co.* (1975) 54 Cal.App. 3d 114. The court held that a district can use its eminent domain power to condemn private property for an office and corporation yard.

Subdivision (c) is based on §2270 (g). Note that the second and third sentences restore the requirement (repealed in 1984) for selling to the highest bidder at public auction. A district must publish notices once a week for two weeks in a local newspaper. Also note that the fourth sentence supercedes the 1981 Attorney General’s opinion that held that the then-current law precluded exchanging property with a private party (64 Ops.Cal.Atty.Gen. 392 [1981]). Later, the Legislature authorized property exchanges.

Subdivision (d) is new and derived from Government Code §25372.

Subdivision (e) is derived from §2270 (c). A 1979 Attorney General’s opinion explained that state law does not require the districts to seek competitive bids when they buy supplies, although they must comply with a statutory mandate to adopt policies and procedures that govern the purchase of supplies and equipment (62 Ops.Cal.Atty.Gen. 643 [1979], citing Government Code §54200 et seq.). That same 1979 AG’s opinion concluded that in the absence of a statutory requirement, a district can use its own employees to build an office building (by “force account”). The Working Group rejected the suggestion that SB 1588 should add the districts to the competitive bidding provisions in the Public Contract Code. Based on the Working Group’s May 23 meeting with the California School Employees Association, the May 30 amendments clarified the districts’ power to employ personnel.

Subdivision (f) is derived from §2270 (d).

Subdivision (g) is derived from §2270 (e).

Subdivision (h) is derived from §2270 (c) and based on Public Resources Code §5786.1 (d). This language should be read together with §2020 which tells the districts’ trustees to establish policies but leaves the implementation of those policies up to the district employees. This is the language that tells trustees to define the employees’ duties. Further, see §2048 regarding personnel systems.

Subdivision (i) is new and based on Public Resources Code §5786.1 (e).

[THE COMMENTARY CONTINUES ON THE NEXT PAGE]

Commentary on §2041, continued from the prior page...

Subdivision (j) is new and based on Public Resources Code §5786.1 (h).

Subdivision (k) is new and based on Public Resources Code §5786.1 (l). Local governments can insure themselves against various liabilities. Liability insurance might be useful in situations like the car accident described in *Bright v. East Side Mosquito Abatement District* (1959) 168 Cal.App.2d 7.

Subdivision (l) is new. The Working Group asked for an explicit authorization for the districts to participate in land use and environmental quality decisions. This language is broad enough to allow districts to be involved in city and county general plan revisions, specific plans, development agreements, zoning decisions, subdivision approvals, use permits, and public works projects. It certainly includes CEQA and NEPA reviews, and NPDES permits.

Subdivision (m) is derived from §2270 (n).

2042. When acquiring, improving, or using any real property, a district shall comply with Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5, and Article 7 (commencing with Section 65400) of Chapter 1 of Division 1 of Title 7 of the Government Code.

Topic, Derivation, and Comments: Conformity to Local Ordinances and Plans. New. Derived from Public Resources Code §5786.3. This language connects the districts to the current law regarding local building and zoning ordinances, and general plans.

Current law requires special districts to comply with the *building ordinances* of the underlying city or county (Government Code §53091). Special districts must pay building permit fees provided that the city or county doesn't charge more than it charges private applicants (Government Code §6103.7 and §53091 [c]). These provisions supercede the 1959 Attorney General's opinion which held that the districts are subject to county building ordinances but exempt from paying building permit fees (33 Ops.Cal.Atty.Gen. 149 [1959]).

Current law requires most special districts to comply with the *zoning ordinances* of the underlying city or county (Government Code §53090). This state law, however, allows a special district to override a local zoning ordinance if it meets specific conditions (Government Code §53096).

Current law requires most special districts to comply with the *general plan* of the underlying city or county (Government Code §65401 and §65402). The Planning and Zoning Law, however, allows a special district to overrule the local general plan if it meets specific conditions (Government Code §65402).

2043. (a) A district shall have perpetual succession.

(b) A board of trustees may, by a two-thirds vote of its total membership, adopt a resolution to change the name of the district. The name shall contain the words “mosquito abatement district,” “vector control district,” “mosquito and vector control district,” “mosquito control district,” or “vector management district.” The resolution shall comply with the requirements of Chapter 23 (commencing with Section 7530) of Division 7 of Title 1 of the Government Code. Within 10 days of its adoption, the board of trustees shall file a copy of its resolution with the Secretary of State, the county clerk, the board of supervisors, and the local agency formation commission of each county in which the district is located.

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

Topic, Derivation, and Comments: Basic Operations. Based on §2225 and derived from Public Resources Code §5786.9.

Subdivision (a) regarding perpetual succession is new and derived from Public Resources Code §5786.9 (a). This declaration is a standard provision of other special districts’ statutes. It assures investors that a district won’t disappear, leaving them without recourse.

Subdivision (b) regarding name changes is new and based on §2225 and derived from Public Resources Code §5786.9 (b). The second sentence gives districts five choices of names whereas §2225 provided only two choices.

Subdivision (c) regarding the retention of district records is new and derived from Public Resources Code §5786.9 (c) and Government Code §50115. After a year, the districts can dispose of documents (whether paper or electronic) that others have given them. Note that this language provides different standards than Government Code §60200, et seq. The Working Group was not aware of those provisions relating to the “Destruction of Records of Special Districts.” Future legislation may conform this subdivision to the uniform standards that apply to other special districts.

2044. (a) A district may cooperate with any public agency or federal agency to carry out the purposes and intent of this chapter. To that end, a district may enter into agreements with those other public agencies or federal agencies to take any and all actions necessary or convenient for carrying out the purposes and intent of this chapter.

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

(c) A district may enter joint powers agreements pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Topic, Derivation, and Comments: Cooperative Action. New and derived from Public Resources Code §5786.11.

Subdivision (a) is the basic authority for a district to cooperate with other government agencies. “Public agency” is defined at §2002 (i). The “purposes and intent” phrase refers back to the legislative declarations and findings in §2001 and the four purposes listed in §2040.

Subdivision (b) specifically allows joint efforts for facilities, projects, or programs.

Subdivision (c) reminds the districts that they can use the Joint Exercise of Powers Act.

2045. A district may contract with other public agencies and federal agencies to provide any service, project, or program authorized by this chapter within the district's boundaries. A district may contract with other public agencies and federal agencies to provide any service, project, or program authorized by this chapter within the boundaries of the other public agencies and federal agencies.

Topic, Derivation, and Comments: Contracts With Other Agencies. Based on §2283.5 and derived from Public Resources Code §5786.13. The second paragraph of §2283.5 allows districts to contract with state or local agencies to control nuisances. This language expands on that concept and allows a district to contract-out and it also allows a district to deliver services, projects, and programs to other agencies (“contracting-in”).

2046. (a) Each district shall adopt policies and procedures, including bidding regulations, governing the purchase of supplies and equipment. Each district shall adopt these policies and procedures by rule or regulation pursuant to Article 7 (commencing with Section 54201) of Chapter 5 of Division 2 of Title 5 of the Government Code.

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

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

(d) A district may request the purchasing agent of the principal county to contract with persons to provide services, projects, and programs authorized by this chapter pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

Topic, Derivation, and Comments: Contracts. New and derived from Public Resources Code §5786.15.

Subdivision (a) is derived from Public Resources Code §5786.15 (a) and Government Code §54202 and §54204 that require all special districts to adopt written purchasing policies. A 1979 Attorney General’s opinion explained that state law does not require the districts to seek competitive bids when they buy supplies, although they must comply with the statutory mandate to adopt policies and procedures that govern the purchase of supplies and equipment. (62 Ops.Cal.Atty.Gen. 643 [1979]). That same 1979 AG’s opinion concluded that in the absence of a statutory requirement, a district can use its own employees to build an office building (by “force account”). The Working Group discussed these issues and decided not to recommend adding bidding and force account provisions in the Public Contract Code. This language recognizes that the districts set their own bidding policies and procedures.

Subdivision (b) is derived from Public Resources Code §5786.15 (b) and Government Code §54205 which allows all local agencies to use the state’s purchasing systems.

Subdivision (c) is derived from Public Resources Code §5786.15 (c). This language lets a district use the county’s purchasing agent for materials, equipment, and supplies, just as it can use the state’s purchasing system.

Subdivision (d) is derived from Public Resources Code §5786.15 (d). This language lets a district use the county’s purchasing agent for services, projects, and programs.

2047. Any person who restrains, hinders, obstructs, or threatens any officer or employee of a district in the performance of that person's duties, or any person who interferes with any work done by, or under the direction of, the district is guilty of a misdemeanor.

Topic, Derivation, and Comments: Misdemeanors. Based on §2292. The Working Group reported that the districts use this provision on rare occasions but it is useful when residents or property owners threaten district employees.

2048. (a) The Meyers-Milias-Brown Act, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code applies to all districts.

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

Topic, Derivation, and Comments: Employee Relations. Based on §2270 (j) and derived from Public Resources Code §5786.19.

Subdivision (a) is new and derived from Public Resources Code §5786.19 (a), and cross-references the Meyers-Milias-Brown Act. The Legislature passed that statewide statute for all local agencies in 1963 but never explicitly linked it to the districts' statute.

Subdivision (b) is based on §2270 (j) and derived from Public Resources Code §5786.19 (b). This language goes beyond the simple authorization for a district to create a civil service system.

2049. A board of trustees may require any employee or officer to be bonded. The district shall pay the cost of the bonds.

Topic, Derivation, and Comments: Employee Bonds. New and derived from Public Resources Code §5786.25.

If a district decides to appoint its own district treasurer to manage the district's funds, the district treasurer and the other district employees who handle the district's finances must be bonded. See §2077 (b)(3).

2050. A board of trustees may provide for any programs for the benefit of its employees and members of the board of trustees pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Employee and Trustee Benefits. New and derived from Public Resources Code §5786.27.

Rather than list all of the various benefit programs that a district might provide to its employees and trustees, this language cross-references the existing statute that allows local governments to provide benefits.

2051. A district may authorize the members of its board of trustees and its employees to attend professional, educational, or vocational meetings, and pay their actual and necessary traveling and incidental expenses while on official business. The payment of expenses pursuant to this section may be in addition to the payments made pursuant to Section 2030.

Topic, Derivation, and Comments: Professional, Educational, or Vocational Meetings. New and derived from Public Resources Code §5786.29.

This language allows a district to pay for its trustees and employees to attend meetings and conferences to increase their knowledge and skills.

2052. (a) Pursuant to Article 4 (commencing with Section 106925) of Chapter 4 of Part 1 of Division 104, every district employee who handles, applies, or supervises the use of any pesticide for public health purposes shall be certified by the department as a vector control technician in at least one of the following categories commensurate with the assigned duties:

- (1) Mosquito control.
- (2) Terrestrial invertebrate vector control.
- (3) Vertebrate vector control.

(b) The department may establish, by regulation, exemptions from the requirements of this section that the department deems reasonably necessary to further the purposes of this section.

Topic, Derivation, and Comments: Vector Control Technicians. Based on §2202.

Subdivision (a) is based on §2202 (a), plus the cross-reference to §106925. Subdivision (b) is based on §2202 (b). The Working Group recommended deleting the rest of §2202 because it duplicated the substance of §106295 that this language picks up by cross-reference.

2053. (a) A district may request an inspection and abatement warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. A warrant issued pursuant to this section shall apply only to the exterior of places, dwellings, structures, and premises. The warrant shall state the geographic area which it covers and shall state its purposes. A warrant may authorize district employees to enter property only to:

- (1) Inspect to determine the presence of vectors or public nuisances.
- (2) Abate public nuisances, either directly or by giving notice to the property owner to abate the public nuisance.
- (3) Determine if a notice to abate a public nuisance has been complied with.
- (4) Control vectors and treat property with appropriate physical, chemical, or biological control measures.

(b) Subject to the limitations of the United States Constitution and the California Constitution, employees of a district may enter any property, either within the district or property that is located outside the district from which vectors may enter the district, without hindrance or notice for any of the following purposes:

- (1) Inspect the property to determine the presence of vectors or public nuisances.
- (2) Abate public nuisances pursuant to this chapter, either directly or by giving notice to the property owner to abate the public nuisance.
- (3) Determine if a notice to abate a public nuisance has been complied with.
- (4) Control vectors and treat property with appropriate physical, chemical, or biological control measures.

Topic, Derivation, and Comments: Enter Private Property. Based on §2270 (f).

Subdivision (a) is based on §2270 (f), plus the cross-reference to the provisions of the Code of Civil Procedure that allow public officials to get inspection warrants. Note that the four purposes listed in subdivision (b) parallel the four purposes of a district in §2040.

In January 1991, attorneys for the California Mosquito and Vector Control Association, Inc. reviewed the effects of *Conner v. Santa Ana* 897 F.2d 1487 (9th Cir. 1990) on the districts' statutory powers under §2270 (f). The attorneys also reviewed *Gleaves v. Waters* (1985) 175 Cal.App. 3d 413, and *Camara v. Municipal Court of San Francisco* (1967) 387 U.S. 523. The attorneys advised the Association's board of directors that when district employees want to inspect private property or abate vectors in areas where the residents have a reasonable expectation of privacy under the Fourth Amendment, the employees should either ask for consent or obtain an inspection warrant under Code of Civil Procedure §1822.50, et seq. If the inspection occurs some distance from a residence, there is no reasonable expectation of privacy. In that situation, the employee does not need to ask permission, does not need a warrant, and does not need to give notice.

[THE COMMENTARY CONTINUES ON THE NEXT PAGE.]

Commentary on §2053, continued from the prior page...

In January 1999, the attorney for the Mosquito and Vector Control Association of California advised the Association's executive director that these cases allowed government officials to enter private property without consent or a warrant if there were "exigent circumstances." For example, a mass stinging incident involving Africanized Honey Bees could allow vector control technicians to enter private property without consent or a warrant to immediately abate an immediate hazard. But each case "would need to be evaluated on a case-by-case basis."

The May 30 amendments to SB 1588 changed the opening phrase to subdivision (b), clearly connecting the districts to the requirements of both the United States and California constitutions.

2054. Whenever the boundaries of a district or a zone change, or whenever the board of trustees levies a special tax or a special benefit assessment, the district shall comply with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

Topic, Derivation, and Comments: Filing Boundaries, Taxes, and Assessments. New and derived from Public Resources Code §5786.31.

This language reminds the districts that they must file formal paperwork before their boundaries, taxes, and assessments take effect.

2055. (a) In any dispute between a district and another public agency over the need to prevent, abate, or control, or the methods and materials used to prevent, abate, or control vectors or vectorborne diseases, the district or the other public agency may appeal the decision to the director of the department within 10 days of the decision.

(b) Within 30 days of receiving an appeal, the director of the department shall consult with the affected agencies, take written and oral testimony, decide the appeal, and convey the decision to the affected agencies. The director's decision shall be consistent with the purposes of this chapter. The decision of the director of the department shall be final and conclusive.

Topic, Derivation, and Comments: Intergovernmental Disputes. Based on §2283.5 and §2294.

This language gives public agencies a faster, non-judicial method to resolve their differences. It does not preclude public agencies from suing each other either before or after the decision by the Director of the State Department of Health Services. See §2006 (Legal Challenges) and §2041 (a) (Suits). However, in a suit filed after the Director decides an intergovernmental dispute, a court is likely to defer to the Director's "final and conclusive" decision. Note that §2002 defines "department" and "public agency."

Article 5. Abatement

2060. (a) A district may abate a public nuisance pursuant to this article.

(b) The person or agency claiming ownership, title, or right to property or who controls the diversion, delivery, conveyance, or flow of water is responsible for the abatement of a public nuisance which is caused by or as a result of that property or the diversion, delivery, conveyance, or control of that water.

Topic, Derivation, and Comments: Public Nuisance Abatement. Based on §2200 (d) and §2272.

Subdivision (a) signals the beginning of the article that allows the districts to abate public nuisances. However, unlike §2272 in the 1939 law that allowed a district to abate a public nuisance under any statutory provision, this language limits the districts to just the provisions of this article.

Subdivision (b) is based on §2200 (d) and assigns responsibility for abating public nuisances caused by property or by water to the person or agency who controls the property or water.

2061. (a) Whenever a public nuisance exists on any property within a district or on any property that is located outside the district from which vectors may enter the district, the board of trustees may notify the owner of the property of the existence of the public nuisance.

(b) The notice shall include all of the following:

(1) State that a public nuisance exists on the property, describe the public nuisance, and describe the location of the public nuisance on the property.

(2) Direct the owner of the property to abate the nuisance within a specified time.

(3) Direct the owner of the property to take any necessary action within a specified time to prevent the recurrence of the public nuisance.

(4) Inform the owner of the property that the failure to comply with the requirements of the notice within the specified times may result in the district taking the necessary actions and that the owner shall be liable for paying the costs of the district's actions.

(5) Inform the owner of the property that the failure to comply with the requirements of the notice within the specified times may result in the imposition of civil penalties of up to one thousand dollars (\$1,000) per day for each day that the public nuisance continues after the specified times.

(6) Inform the owner of the property that before complying with the requirements of the notice, the owner may appear at a hearing of the board of trustees at a time and place stated in the notice.

(c) The board of trustees shall cause the notice to be served on the owner of the property in the same manner as a summons in a civil action. If, after a diligent search, the notice cannot be served on the owner of the property, the board of trustees shall cause the notice to be posted in a conspicuous place on the property for not less than 10 days before the hearing. Not less than 10 days before the hearing, the board of trustees shall also cause a copy of the notice to be mailed by certified mail to the owner of the property at the address shown on the most recent assessment roll of the county in which the property is located.

(d) At the hearing before the board of trustees at the time and place stated in the notice, the board of trustees shall accept written and oral testimony from the property owner and other persons. At the close of the hearing, the board of trustees shall find, based on substantial evidence in the record, whether a public nuisance exists on the property. If the board of trustees finds that a public nuisance exists, the board of trustees shall order the owner of the property to abate the public nuisance and to take other necessary actions to prevent the recurrence of the public nuisance. The board of trustees shall specify a reasonable time by which the owner of the property shall comply with these requirements.

(e) If the owner of the property does not abate the public nuisance or take the necessary actions to prevent the recurrence of the public nuisance within the time specified by the board of trustees, the district may abate the public nuisance and take the necessary actions to prevent the recurrence of the public nuisance. In addition, the board of trustees may impose civil penalties pursuant to Section 2063.

[THE COMMENTARY APPEARS ON THE NEXT PAGE.]

Topic, Derivation, and Comments: Abatement Proceedings.

This section compresses and revises the proceedings found in §2272 to §2282. Note that the following section (§2062) creates an important exception to these provisions.

Subdivision (a), regarding abatement notices, is based on §2274.

Subdivision (b), regarding the notice contents, is based on §2275.

Subdivision (c), regarding serving the notice, is based on §2277, §2278, and §2279. The May 30 amendments required 10 days' notice to property owners before a district's nuisance abatement hearing. This change came out of the Working Group's May 23 meeting with waterfowl interests.

Subdivision (d), regarding the public hearing, is based on §2280.

Subdivision (e), regarding abatement by the property owner, is based on §2282.

2062. (a) A board of trustees shall not declare an agricultural operation to be a public nuisance because of the presence of immature flies if the board determines that the agricultural operation is designed and managed consistent with the accepted standards and practices for controlling fly development on similar agricultural operations

(b) As used in this section, “accepted standards and practices” means those standards and practices determined by the University of California Extension, the department, or local public health agencies. These standards and practices include, but are not limited to:

(1) Property design and layout of the agricultural operation to minimize the opportunity for fly development.

(2) A comprehensive system for manure management to include storage, removal, and disposal.

(3) A comprehensive system for green waste management to include storage, removal, and disposal.

(4) An integrated pest management program to control the development and harborage of flies, including the components of surveillance, management, containment, and control.

Topic, Derivation, and Comments: Agricultural Operations. Based on §2200 (e) and §2272.5.

This language was the subject of intense discussion by the Working Group. The Working Group recommended that the Legislature retain an exemption from the public nuisance provisions for well-managed agricultural operations. Removing this language would have drawn opposition from the California Farm Bureau Federation.

Notice that subdivision (a) focuses regulators’ attention on the presence of immature flies, unlike §2272.5 which directed their attention to fly larvae and “excessive adult fly emergence.”

Subdivision (b) provides property owners, farmers, and public officials with clearer language to assess whether an agricultural operation meets “accepted standards and practices.” The Working Group preferred this approach to the language that was in §2200 (e).

2063. In addition to abating the public nuisance and taking any necessary actions to prevent the recurrence of the public nuisance, a board of trustees may impose a civil penalty on the owner of the property for failure to comply with the requirements of Section 2061. The civil penalty shall not exceed one thousand dollars (\$1,000) per day for each day that the owner of the property fails to comply with the district's requirements.

Topic, Derivation, and Comments: Civil Penalties. Based on §2280 (second paragraph).

Besides abating nuisances and preventing their recurrence, this language lets the districts impose civil penalties as a deterrent. The Working Group reported that some property owners can avoid significant costs by getting a district to perform the abatement work. Imposing an additional penalty on recalcitrant property owners curbs that practice. The maximum penalty in §2280 was \$500 and the Legislature hadn't raised the amount in over 60 years. This language doubles the maximum penalty to \$1,000 a day.

2064. A board of trustees may consider any recurrence of a public nuisance abated pursuant to Section 2061 to be a continuation of the original public nuisance.

Topic, Derivation, and Comments: Recurring Nuisances. Based on §2281.

The practical effect of this language is that it allows a district to avoid repeated (and expensive) public notices and public hearings.

2065. (a) The owner of the property abated pursuant to Section 2061 shall pay the district for the cost of abating the public nuisance and the cost of any necessary actions to prevent the recurrence of the public nuisance. The owner shall also pay any civil penalty imposed pursuant to Section 2063.

(b) If the owner of the property fails to pay the district's costs within 60 days, the board of trustees may order the costs and any civil penalties specially assessed against the property. The assessment shall be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.

(c) If the board of trustees specially assesses the costs and any civil penalties against the parcel, the board of trustees may also cause the notice of abatement lien to be recorded. The notice shall, at a minimum, identify the record owner of the property, set forth the last known address of the record owner, set forth the date upon which the abatement of the public nuisance was ordered by the board of trustees, set forth the date upon which the abatement and any necessary actions to prevent the recurrence of the public nuisance was complete, and include a description of the real property subject to the lien and the amount of the cost and any civil penalties.

(d) However, if the board of trustees does not cause the recordation of a notice of abatement lien pursuant to subdivision (c), and any real property to which the costs and any civil penalties relate has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrancer for value has been created and attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost and any civil penalties shall not result in a lien against that real property but shall be transferred to the unsecured roll for collection.

(e) Recordation of a notice of abatement lien pursuant to subdivision (c) has the same effect as recordation of an abstract of a money judgment recorded pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The lien created has the same priority as a judgment lien on real property and continues in effect until released. Upon order of the board of trustees, an abatement lien created under this section may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

Topic, Derivation, and Comments: Cost Recovery and Abatement Liens.

Subdivision (a) is based on §2283 and on §2862.5 from the Pest Abatement District Law. Because §2061 already requires a district's board of trustees to offer a hearing to the property owner, this language omits the provision in §2283 that prohibited a district from charging a property owner unless a hearing was offered.

In subdivision (b), the first sentence gives the property owner 60 days to pay the district; there was no deadline in §2283. The rest of subdivision (b) is derived from Government Code §25845 which are the existing procedures for a county to impose special assessments and abatement liens for public nuisances.

Subdivisions (c) through (e) are derived from Government Code §25845 (c) through (e).

2066. The lien provisions of this article do not apply to property owned by a public agency. Notwithstanding Section 6103 of the Government Code or any other provision of law, a public agency shall pay the district for the cost of abating the public nuisance, the cost of any necessary actions to prevent the recurrence of the public nuisance, and any civil penalties.

Topic, Derivation, and Comments: Public Agency Payments. Based on §2289 and §2867.

Districts can recover their costs of abating public nuisances on property owned by other public agencies, even if they can't impose liens on public property.

2067. Any money collected by a county from a lien authorized pursuant to this article, other than the amounts authorized pursuant to Section 29304 of the Government Code, shall be paid to the district.

Topic, Derivation, and Comments: Revenue Collections. Based on §2868 from the Pest Abatement District Law.

Note that county officials get to keep the administrative costs that they charge under Government Code §29304.

Article 6. Finances

2070. (a) On or before August 1 of each year, the board of trustees shall adopt a final budget which shall conform to the accounting and budgeting procedures for special districts contained in Subchapter 3 (commencing with Section 1031.1) of, and Article 1 (commencing with Section 1121) of Subchapter 4 of Division 2 of Title 2 of the California Code of Regulations.

The board of trustees may divide the annual budget into categories, including but not limited to:

- (1) Maintenance and operation.
- (2) Employee compensation.
- (3) Capital outlay.
- (4) Interest and redemption for indebtedness.
- (5) Restricted reserve for public health emergencies.
- (6) Restricted reserve for capital and asset preservation.
- (7) Restricted reserve for contingencies.
- (8) Unallocated general reserve.

(b) The board of trustees shall forward a copy of the final budget to the auditor of each county in which the district is located.

Topic, Derivation, and Comments: Annual Budget. Based on §2300 and derived from Public Resources Code §5788.

This language tells the districts how to set up their annual budgets, paying particular attention to establishing restricted reserves and an unallocated general reserve. The Working Group was aware of the criticism that some special districts have received for holding on to what appear to be excessive amounts of revenues in general reserves. The language relies on the existing standard regulations for adopting special districts' budgets

The Working Group explained that, unlike some other types of special districts, mosquito abatement districts do not adopt preliminary budgets, only final budgets. The Working Group also advised that the August 1 deadline was acceptable. The Working Group requested eliminating the percentage limits on reserve funds. They also asked that this language specifically list the restricted reserves for public health emergencies, and for capital and asset preservation.

2071. (a) In its annual budget, the board of trustees may establish one or more restricted reserves. When the board of trustees establishes a restricted reserve, it shall declare the exclusive purposes for which the funds in the reserve may be spent. The funds in the restricted reserve shall be spent only for the exclusive purposes for which the board of trustees established the restricted reserve. The reserves shall be maintained according to generally accepted accounting principles.

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

(c) Notwithstanding any other provision of this section, in a public health emergency, a board of trustees may, by majority vote of the total membership of the board of trustees, temporarily transfer funds from other restricted reserves to the restricted reserve for public health emergencies.

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

Topic, Derivation, and Comments: Restricted Reserves. New section derived from Public Resources Code §5788.9.

This language controls the use of restricted reserves. The Working Group wanted the language in subdivision (c) so that districts could borrow from other reserves to combat a public health emergency.

2072. (a) On or before July 1 of each year, the board of trustees shall adopt a resolution establishing its appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B of the California Constitution and Division 9 (commencing with Section 7900) of the Government Code.

(b) Pursuant to subdivision (c) of Section 9 of Article XIII B of the California Constitution, this section shall not apply to a district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12½ cents per \$100 of assessed value.

Topic, Derivation, and Comments: Annual Appropriations Limit. New section derived from Public Resources Code §5788.11.

The voters passed Proposition 4 (the 1979 Gann Initiative), requiring nearly all local governments to set an annual appropriations limit (the “Gann Limit”).

Subdivision (a) cross-references the uniform statutory procedure for setting local appropriations limits, plus it sets the July 1 deadline.

Subdivision (b) notes that Proposition 4 exempted some special districts from the requirement to adopt annual appropriations limits. Anecdotally --- perhaps apocryphally --- it is said that Paul Gann intended for this exemption to apply to mosquito abatement and vector control districts that he knew about in the Central Valley.

2073. The auditor of each county in which a district is located shall allocate to the district its share of property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

Topic, Derivation, and Comments: Property Tax Allocation. Based on §2302 and derived from Public Resources Code §5788.13.

This language signals county auditor-controllers to send the districts their shares of the property tax revenues.

2074. (a) A district may accept any revenue, money, grants, goods, or services from any federal, state, regional, or local agency or from any person for any lawful purpose of the district.

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

Topic, Derivation, and Comments: Contributions and Borrowing. New and based on §2270 (h) and derived from Public Resources Code §5788.17.

Subdivision (a) is new and derived from Public Resources Code §5788.17 (a). This language allows a district to accept any kind of help from other governments or private sources.

Subdivision (b) is based on §2270 (h) and derived from Public Resources Code §5788.17 (b). Using this language, a district can engage in short-term borrowing (“dry period loans”) by using the standard statutes that apply to all local governments.

2075. (a) All claims for money or damages against a district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

Topic, Derivation, and Comments: Claims. Based on §2320 with minor editing.

This language picks up the standard provisions by which all other public agencies respond to claims.

2076. (a) All claims against a district shall be audited, allowed, and paid by the board of trustees by warrants drawn on the county treasurer.

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

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

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

Topic, Derivation, and Comments: Paying Claims and Warrants. Based on §2312 and derived from Public Resources Code §5788.23.

This language explains how districts pay their bills with warrants drawn on the county treasury. Also see §2077 which allows the larger districts to appoint their own district treasurers and manage their own funds.

2077. (a) Notwithstanding Section 2076, a district that has total annual revenues greater than two hundred fifty thousand dollars (\$250,000) may withdraw its funds from the control of the county treasurer pursuant to this section.

(b) The board of trustees shall adopt a resolution that does each of the following:

(1) States its intent to withdraw its funds from the county treasury.

(2) Adopt a procedure for the appointment of a district treasurer. The board of trustees may appoint the district treasurer, or the board of trustees may delegate the appointment of the district treasurer to the district's general manager. The district treasurer may be a member of the board of trustees, the secretary of the board of trustees, the general manager, or a district employee.

(3) Fix the amount of the bond for the district treasurer and other district employees who will be responsible for handling the district's finances.

(4) Adopt a system of accounting and auditing that shall completely and at all times show the district's financial condition. The system of accounting and auditing shall adhere to generally accepted accounting principles.

(5) Adopt a procedure for drawing and signing warrants, provided that the procedure adheres to generally accepted accounting principles. The procedure shall provide that bond principal and salaries shall be paid when due. The procedure may provide that warrants to pay claims and demands need not be approved by the board of trustees before payment if the district treasurer determines that the claims and demands conform to the district's approved budget.

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

(c) The board of trustees and the board of supervisors of the principal county shall determine a mutually acceptable date for the withdrawal of the district's funds from the county treasury, not to exceed 15 months from the date on which the board of trustees adopts its resolution.

(d) Nothing in this section shall preclude the district treasurer from depositing the district's funds in the county treasury of the principal county or the state treasury.

(e) The district treasurer shall make annual or more frequent written reports to the board of trustees, as the board of trustees shall determine, regarding the receipts and disbursements and balances in the accounts controlled by the district treasurer. The district treasurer shall sign the reports and file them with the secretary.

[THE COMMENTARY APPEARS ON THE NEXT PAGE]

Topic, Derivation, and Comments: District Management of Funds. New and derived from Government Code §61737.01-§61737.09 and Public Resources Code §5784.9.

This language allows larger districts to take over the management of their funds from county treasurers. This language is similar to the provisions for community services districts (Government Code §61737.01 to §61737.09) and recreation and park districts (Public Resources Code §5784.9).

Subdivision (a) requires a district to have annual revenues of at least \$250,000 before it can take control of its finances. This threshold qualifies 35 districts, based on the information in Table 13 of the State Controller's *Special Districts Annual Report, Fiscal Year 1999-00*.

Subdivision (b) describes the contents of the implementing resolution.

Subdivision (c) allows the county and the district to negotiate the transfer date. Derived from Public Resources Code §5784.9 (b).

Subdivision (d) requires the district to follow the state laws governing the investment of funds.

Subdivision (e) requires regular reports. Derived from Government Code §61737.07 and Public Resources Code §5784.9 (j).

2078. The board of trustees may establish a revolving fund pursuant to Article 15 (commencing with Section 53950) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code to make change and pay small bills directly.

Topic, Derivation, and Comments: Revolving Fund. New and derived from Government Code §53952.

Existing law allows special districts to get cash advances from the county treasurer so that the districts can make change and pay small bills directly (Government Code §53950-53961). Most special districts can get \$1,000 (Government Code §53952). Mosquito abatement districts and cemetery districts can draw 110% of 1/12 of their annual budgets (Government Code §53961).

This language places the statutory cross-reference in the new law where it will remind district officials of the opportunity to set up a revolving fund.

2079. (a) The board of trustees shall provide for regular audits of the district's accounts and records pursuant to Section 26909 of the Government Code.

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

Topic, Derivation, and Comments: Audits and Reports. New and derived from Public Resources Code §5788.25.

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

Article 7. Alternative Revenues

2080. Whenever a board of trustees determines that the amount of revenues available to the district or any of its zones is inadequate to meet the costs of providing facilities, programs, projects, and services, the board of trustees may raise revenues pursuant to this article or any other provision of law.

Topic, Derivation, and Comments: Revenue Authority. Based on §2302 (first clause) and derived from Public Resources Code §5789.

This language introduces Article 7, the provisions that give the districts alternative ways of raising local revenues.

2081. A district may levy special taxes pursuant to:

(a) Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

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

Topic, Derivation, and Comments: Special Taxes.

The California Constitution requires a special district to obtain 2/3-voter approval before it can levy special taxes. See Article XIII A, §4 and Article XIII C, §2.

Subdivision (a) allows a district to levy special taxes, using the standard authority that's available to many local governments. Based on §2270 (m) and §2303.

Subdivision (b) allows a district to levy special taxes under the Mello-Roos Community Facilities Act. The Mello-Roos Act already allows local governments, including the districts, to levy special taxes to pay for drainage canals, levees, and other public works. Derived from Public Resources Code §5789.1 (b).

2082. (a) A district may levy special benefit assessments consistent with the requirements of Article XIII D of the California Constitution to finance vector control projects and programs.

(b) Before beginning a vector control project or program proposed to be financed pursuant to this section, the board of trustees shall adopt a resolution which does all of the following:

- (1) Specifies its intent to undertake the project or program.
- (2) Generally describes the project or program.
- (3) Estimates the cost of the project or program.
- (4) Estimates the duration of the proposed special benefit assessment.

(c) After adopting its resolution pursuant to subdivision (b), the board of trustees shall proceed pursuant to Section 53753 of the Government Code.

(d) The special benefit assessments levied pursuant to this section shall be collected at the same time and in the same manner as county taxes. The county may deduct an amount not to exceed its actual costs incurred for collecting the special benefit assessments before remitting the balance to the district. The special benefit assessments shall be a lien on all the property benefited. Liens for the assessments shall be of the same force and effect as liens for property taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for county taxes.

Topic, Derivation, and Comments: Benefit Assessments for Vector Control Projects and Programs.

The California Constitution requires local officials to obtain majority approval from property owners in a weighted ballot election before they can levy special benefit assessments. See Article XIII D, §4.

Subdivision (a) is based on §2291.2 (a)(1). Instead of “vector surveillance and control projects,” this language uses the broader phrase, “vector control project or program.” The term “vector control” appears in California Constitution Article XIII D, §5 (a) and the statutory definition is in the Proposition 218 implementing statute at Government Code §53750 (1).

Subdivision (b) is based on §2291.2 (a)(2) with minor editing.

Subdivision (c) is based on §2291.1 (a)(3). The cross-reference to Government Code §53753 connects the districts to the statutes that implement Proposition 218’s requirements for notice, hearing, and weighted ballots.

Subdivision (d) is based on §2291.2 (b).

2083. A district may levy special benefit assessments consistent with the requirements of Article XIII D of the California Constitution to finance capital improvements, including but not limited to special benefit assessments levied pursuant to:

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

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

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

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

Topic, Derivation, and Comments: Special Benefit Assessments. Derived from Public Resources Code §5789.3 and Streets & Highways Code §5005, §8503, and §10003.

The districts already have the power to use the 1911, 1913, and 1915 Acts to pay for public works projects. This language acts as a “billboard” to remind district officials that they can levy special benefit assessments, provided that they act consistently with the constitutional provisions added by Proposition 218.

2084. Pursuant to Section 5 of Article XIII D of the California Constitution and Section 53753.5 of the Government Code, any assessment existing on November 6, 1996, that was imposed exclusively to finance the capital costs or maintenance and operation expenses for vector control shall be exempt from the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution and Section 2082. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution and Section 2082.

Topic, Derivation, and Comments: Exemptions. Based on §2291.5 and derived from Government Code §53753.5.

Proposition 218 exempted vector control measures that existed on November 6, 1996, the effective date of the constitutional amendment. This language recognizes that constitutional exemption and its statutory counterpart.

2085. (a) A board of trustees may charge a fee to cover the cost of any service which the district provides or the cost of enforcing any regulation for which the fee is charged. No fee shall exceed the costs reasonably borne by the district in providing the service or enforcing the regulation for which the fee is charged.

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

(c) Notwithstanding Section 6103 of the Government Code, a board of trustees may charge a fee authorized by this section to other public agencies.

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

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

Topic, Derivation, and Comments: Fees. Based on §2270 (l) and derived from Public Resources Code §5789.5.

This language gives the districts the authority to charge fees for their services.

Subdivision (a) is based on §2270 (l) and derived from Public Resources Code §5789.5 (a) and repeats the constitutional standard that a fee can't exceed the cost.

Subdivision (b) is new and derived from Public Resources Code §5789.5 (b). The language repeats the constitutional requirement. That portion of Proposition 218 is self-executing and there is no implementing statute.

Subdivision (c) is new and derived from Health & Safety Code §13918 for fire protection districts. The language specifically waives the general prohibition against one agency charging another. A district could use this language to charge a recreation and park district for the costs of treating mosquito larvae in the water hazard ponds at the park district's golf course.

Subdivision (d) is new and derived from Public Resources Code §5789.5 (c). A district can't overcharge a nonresident but it can undercharge a resident. Because residents and taxpayers support districts with their property taxes and benefit assessments, a district might want to charge them less than the full cost of the service.

Subdivision (e) is new and derived from Public Resources Code §5789.5 (d). A district might want to waive or partially waive fees for senior citizens, poor people, or school districts. If the board of trustees adopts written policy guidelines, the general manager can waive or cut the fees.

Article 8. Zones

2090. (a) Whenever a board of trustees determines that it is in the public interest to provide different services, to provide different levels of service, or to raise additional revenue within specific areas of the district, it may form one or more zones pursuant to this article.

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

(1) States that the proposal is made pursuant to this article.

(2) Sets forth a description of the boundaries of the territory to be included in the zone.

(3) State the different services, the different levels of service, or additional revenues which the zone will provide.

(4) Set forth the methods by which those services or levels of service will be financed.

(5) State the reasons for forming the zone.

(6) Propose a name or number for the zone.

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

(d) Upon the adoption of a resolution or the receipt of a valid petition, the board of trustees shall fix the date, time, and place for the public hearing on the formation of the zone. The board of trustees shall publish notice of the hearing, including the information required by subdivision (b), pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation in the district. The board of trustees shall mail the notice at least 45 days before the date of the hearing to all owners of property within the proposed zone. The board of trustees shall post the notice in at least three public places within the territory of the proposed zone.

Topic, Derivation, and Comments: Forming Zones. Based on §2291, §2291.1, §2292.2 (a), and §2292.4, and derived from Public Resources Code §5791.

This language introduces Article 8 and then spells out the procedures that the districts must follow to set up zones. While the 1939 law (as amended in 1984) allowed the districts to set up zones, it was silent on the procedures. After the May 23 meeting of the Working Group, the May 30 amendments increased the notice period in subdivision (d) from 20 days to 45 days.

2091. (a) At the hearing, the board of trustees shall hear and consider any protests to the formation of the zone. If, at the conclusion of the hearing, the board of trustees determines either (1) that more than 50 percent of the total number of voters residing within the proposed zone have filed written objections to the formation, or (2) that property owners who own more than 50 percent of the assessed value of all taxable property within the proposed zone have filed written objections to the formation, then the board of trustees shall terminate the proceedings. If the board of trustees determines that the written objections have been filed by 50 percent or less of those voters or property owners, then the board of trustees may proceed to form the zone.

(b) If the resolution or petition proposed that the zone use special taxes, special benefit assessments, or fees for property-related services to finance its purposes, the board of trustees shall proceed according to law. If the voters or property owners do not approve those funding methods, the zone shall not be formed.

Topic, Derivation, and Comments: Hearing and Protest. New and derived from Public Resources Code §5791.1.

Majority protest by either voters or property owners stops the proceedings to form a proposed zone. If there is less than a majority protest, the board of trustees can proceed to ask the voters or the property owners to approve the financing methods. If they reject the special taxes or benefit assessments, the formation of the zone stops.

2092. (a) A board of trustees may change the boundaries of a zone or dissolve a zone by following the procedures in Section 2090 and 2091.

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

Topic, Derivation, and Comments: Zone Boundaries. New and derived from Public Resources Code §5791.3 and §5791.5.

A LAFCO has no control over the districts' zones, just as a LAFCO has no control over other special districts' internal improvement districts or service zones (see Government Code §56036 [a]). However, in an annexation to a district, a LAFCO can impose terms and conditions that affect zones. (see Government Code §56886 [e]).

2093. (a) As determined by the board of trustees, a zone may provide any service at any level within its boundaries that the district may provide.

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

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

Topic, Derivation, and Comments: Services and Finances. Based on §2291.4 and derived from Public Resources Code §5791.7.

This language allows a district to do anything through a zone that it could do throughout the district, linking the costs and benefits to a defined geographic area. For example, a district could use a zone to deliver services more frequently to the urbanized part of the district than it would ordinarily provide in the outlying agricultural areas. Or, hypothetically, a district could abate mosquitoes within its entire boundaries but provide rodent control only in the two zones that cover the two towns in the district.

OTHER SECTIONS ENACTED BY SENATE BILL 1588

SECTION 1. Section 25842.5 of the Government Code is amended to read:

25842.5. (a) The board of supervisors may provide the same services and exercise the powers of mosquito abatement districts or vector control districts formed pursuant to ~~Chapter 5 (commencing with Section 2200)~~ the Mosquito Abatement and Vector Control District Law, Chapter 1 (commencing with Section 2000) of Division 3 of the Health and Safety Code within both the unincorporated and incorporated territory of the county.

(b) Before exercising ~~such~~ that authority within incorporated territory, the consent of the city council shall first be obtained. ~~Prior to~~ Before exercising the authority granted pursuant to this section, the board of supervisors shall hold a public hearing on any such proposal. Notice of such hearing shall be given pursuant to Section 6061 in a newspaper of general circulation in the county.

Topic, Derivation, and Comments: County Mosquito Abatement Programs.

This section of the Government Code allows a county to exercise the powers of mosquito abatement districts. The amendments to this section insert the correct statutory cross-reference to the new Mosquito Abatement District Law. There is no substantive change.

SEC. 2. Article 4 (commencing with Section 25850) of Chapter 8 of Division 2 of Title 3 of the Government Code is repealed.

Topic, Derivation, and Comments: Counties' EMASC Revenues. Repealed.

Article 4, "Standby Charges For Public Health Emergencies," allowed county supervisors to charge emergency mosquito abatement standby charges (EMASC). This article was nearly identical to the districts' EMASC powers under §2315-2319. When the voters passed Proposition 218 in 1996, they made this power moot for both the districts and the counties. The Working Group recommended repealing the districts' authority to levy EMASCs. Likewise, this section repeals the counties' EMASC authority.

SEC. 3. Section 53750 of the Government Code is amended to read:

53750. For purposes of Article XIII C and Article XIII D of the California Constitution and this article:

(a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIII C of the California Constitution.

(b) "Assessment" means any levy or charge by an agency upon real property that is based upon the special benefit conferred upon the real property by a public improvement or service, that is imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the service being provided. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment," and "special assessment tax."

(c) "District" means an area that is determined by an agency to contain all of the parcels that will receive a special benefit from a proposed public improvement or service.

(d) "Drainage system" means any system of public improvements that is intended to provide for erosion control, landslide abatement, or for other types of water drainage.

(e) "Extended," when applied to an existing tax or fee or charge, means a decision by an agency to extend the stated effective period for the tax or fee or charge, including, but not limited to, amendment or removal of a sunset provision or expiration date.

(f) "Flood control" means any system of public improvements that is intended to protect property from overflow by water.

(g) "Identified parcel" means a parcel of real property that an agency has identified as having a special benefit conferred upon it and upon which a proposed assessment is to be imposed, or a parcel of real property upon which a proposed property-related fee or charge is proposed to be imposed.

(h) (1) "Increased," when applied to a tax, assessment, or property-related fee or charge, means a decision by an agency that does either of the following:

(A) Increases any applicable rate used to calculate the tax, assessment, fee or charge.

(B) Revises the methodology by which the tax, assessment, fee or charge is calculated, if that revision results in an increased amount being levied on any person or parcel.

(2) A tax, fee, or charge is not deemed to be "increased" by an agency action that does either or both of the following:

(A) Adjusts the amount of a tax or fee or charge in accordance with a schedule of adjustments, including a clearly defined formula for inflation adjustment that was adopted by the agency prior to November 6, 1996.

(B) Implements or collects a previously approved tax, or fee or charge, so long as the rate is not increased beyond the level previously approved by the agency, and the methodology previously approved by the agency is not revised so as to result in an increase in the amount being levied on any person or parcel.

(3) A tax, assessment, fee or charge is not deemed to be "increased" in the case in which the actual payments from a person or property are higher than would have resulted when the agency approved the tax, assessment, or fee or charge, if those higher payments are attributable to events other than an increased rate or revised methodology, such as a change in the density, intensity, or nature of the use of land.

[THE TEXT AND COMMENTARY CONTINUES ON THE NEXT PAGE.]

(i) "Notice by mail" means any notice required by Article XIII C or XIII D of the California Constitution that is accomplished through a mailing, postage prepaid, deposited in the United States Postal Service and is deemed given when so deposited. Notice by mail may be included in any other mailing to the record owner that otherwise complies with Article XIII C or XIII D of the California Constitution and this article, including, but not limited to, the mailing of a bill for the collection of an assessment or a property-related fee or charge.

(j) "Record owner" means the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the agency.

(k) "Registered professional engineer" means an engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(l) "Vector control" means any system of public improvements or services that is intended to provide for the surveillance, prevention, abatement, and control of vectors as defined in subdivision ~~(f)~~ (k) of Section ~~2000~~ 2002 of the Health and Safety Code and a pest as defined in ~~Division 4 (commencing with Section 5001) and Division 5 (commencing with Section 9101)~~ Section 5006 of the Food and Agricultural Code.

(m) "Water" means any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water.

Topic, Derivation, and Comments: Proposition 218 Implementation.

After the voters passed Proposition 218 (1996) to amend the California Constitution, the Legislature adopting implementing statutes. This section of the Government Code defines the key terms, including "vector control." The amendments to this section broaden that definition to reflect all four themes in the new Mosquito Abatement District Law. The amendments also revise the statutory reference to the definitions in the new Law.

SEC. 4. Section 53961 of the Government Code is amended to read:

53961. The governing board of a public cemetery district organized pursuant to the public cemetery district laws in Part 4 (commencing with Section 8890) of Division 8 of the Health and Safety Code or the governing board of a mosquito abatement district or a vector control district organized pursuant to ~~Chapter 5 (commencing with Section 2200)~~ the Mosquito Abatement District Law, Chapter 1 (commencing with Section 2000) of Division 8 of the Health and Safety Code, may by resolution provide for the establishment of a revolving fund in an amount not to exceed 110 percent of one-twelfth of the district's adopted budget for that fiscal year. This fund, which shall replace the fund authorized in Section 53952, may be used to pay any authorized expenditures of the district. The resolution which established the district revolving fund shall conform with the designations required in Section 53952.

Topic, Derivation, and Comments: Revolving Funds.

Special districts can get cash advances from the county treasurer so that the districts can make change and pay small bills directly (Government code §53950-53961). Most special districts can get \$1,000 (Government Code §53952). Mosquito abatement districts and cemetery districts can draw 110% of 1/12 of their annual budgets (Government Code §53961).

This amendment corrects the statutory cross-reference to the new Mosquito Abatement District Law. The new Law contains a cross-reference to this section (see §2078).

SEC. 5. Section 56036 of the Government Code is amended to read:

56036. (a) "District" or "special district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" or "special district" includes a county service area, but excludes all of the following:

- (1) The state.
- (2) A county.
- (3) A city.
- (4) A school district or a community college district.
- (5) A special assessment district.
- (6) An improvement district.

(7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.

(8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

(9) An air pollution control district or an air quality maintenance district.

(10) A ~~service~~ zone of a fire protection district, a mosquito abatement and vector control district, and a recreation and park district.

(b) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or a "special district" for the purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or a "special district:"

- (A) A unified or union high school library district.
- (B) A bridge and highway district.
- (C) A joint highway district.
- (D) A transit or rapid transit district.
- (E) A metropolitan water district.
- (F) A separation of grade district.

(2) Any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving an entity described in paragraph (1) shall be conducted pursuant to the principal act authorizing the establishment of that entity.

(c) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or "special district" for purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or "special district" if the commission of the principal county determines, in accordance with Sections 56127 and 56128, that the entity is not a "district" or "special district."

- (A) A flood control district.
- (B) A flood control and floodwater conservation district.
- (C) A flood control and water conservation district.
- (D) A conservation district.
- (E) A water conservation district.
- (F) A water replenishment district.

(G) The Orange County Water District.

(H) A California water storage district.

(I) A water agency.

(J) A county water authority or a water authority.

(2) If the commission determines that an entity described in paragraph (1) is not a "district" or "special district," any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

Topic, Derivation, and Comments: No LAFCO Control Over Districts' Zones.

The Cortese-Knox-Hertzberg Local Government Reorganization Act defines the districts over which LAFCOs have control. This section also exempts the service zones of fire protection districts from LAFCOs' control. The amendments to this section also exempt the zones of mosquito abatement districts, linking back to §2092 (b).

The amendments also exempt the zones of recreation and park districts, linking back to Public Resources Code §5791.5. This change should have been made in SB 707, the bill that enacted the Recreation and Park District Law in 2001.

SEC. 7. Chapter 5 (commencing with Section 2200) of Division 3 of the Health and Safety Code is repealed.

Topic, Derivation, and Comments: Former Statute.

This section repeals the former statute creating and governing mosquito abatement districts.

SEC. 8. Section 101685 of the Health and Safety Code is amended to read:

101285. (a) Notwithstanding Section 101260, the county board of supervisors may, with the concurrence of the county officer providing the services, transfer all or any portion of the function of providing vector control services to any mosquito abatement ~~district or~~ and vector control district formed pursuant to ~~Chapter 5 (commencing with Section 2200)~~ the Mosquito Abatement and Vector Control District Law, Chapter 1 (commencing with Section 2000) of Division 3, provided that the district's boundaries include that territory.

(b) A county that ~~chooses to transfer the~~ transfers vector control services to a district shall continue to receive funds appropriated for the purposes of this article if ~~it~~ that county complies with all of the other minimum standards and if the vector control program is maintained at a level that meets the minimum standards set by the department.

Topic, Derivation, and Comments: County Transfers to Districts.

This section allows a county to transfer its vector control programs to a mosquito abatement district.

The first change splits the section into two subdivisions and then corrects the statutory reference to the new Law.

The second change (at the end of subdivision [a]) relies on a 1976 Attorney General's opinion which held that this section "makes no provision for expansion of the authority of a mosquito abatement or vector control district. Such a district may not provide vector control services outside its boundaries. (59 Ops.Cal.Atty.Gen. 502). In other words, if a district's boundaries don't cover the whole county, the district must first annex the territory.

The third change (part of subdivision [b]) clarifies that a county continues to receive its state funds.

SEC. 9. Section 106925 of the Health and Safety Code is amended to read:

106925. (a) Except as otherwise provided in subdivision (b) or ~~(h)~~ (i), every government agency employee who handles, applies, or supervises the use of any pesticide for public health purposes, shall be certified by the department as a vector control technician in at least one of the following categories commensurate with assigned duties, as follows:

- (1) Mosquito control.
- (2) Terrestrial invertebrate vector control.
- (3) Vertebrate vector control.

(b) The department may establish, by regulation, exemptions from the requirements of this section that are deemed reasonably necessary to further the purposes of this section.

(c) The department shall establish by regulation minimum standards for continuing education for any government agency employee certified under Section 116110 and regulations adopted pursuant thereto, who handles, applies, or supervises the use of any pesticide for public health purposes.

(d) An official record of the completed continuing education units shall be maintained by the department. If a certified technician fails to meet the requirements set forth under subdivision (c), the department shall suspend the technician's certificate or certificates and immediately notify the technician and the employing agency. The department shall establish by regulation procedures for reinstating a suspended certificate.

(e) The department shall charge and collect a nonreturnable renewal fee of twenty-five dollars (\$25) to be paid by each continuing education certificant on or before the first day of July, or on any other date that is determined by the department. Each person employed in a position on September 20, 1988, that requires certification shall first pay the annual fee the first day of the first July following that date. All new certificants shall first pay the annual fee the first day of the first July following their certification.

(f) The department shall charge and collect nonrefundable examination fees for providing examinations pursuant to this section. When certification is required as a condition of employment, the employing agency shall pay the fees for certified technician applicants. The fees shall not exceed the estimated reasonable cost of providing the examinations, as determined by the director.

(g) The department shall collect and account for all money received pursuant to this section and shall deposit it in the Mosquitoborne Disease Surveillance Account provided for in Section 25852 of the Government Code. Notwithstanding Section 25852 of the Government Code, fees deposited in the Mosquitoborne Disease Surveillance Account pursuant to this section shall be available for expenditure upon appropriation by the Legislature to implement this section.

~~(g)~~ (h) Fees collected pursuant to this section shall be subject to the annual fee increase provisions of Section 100425.

~~(h)~~ (i) Employees of the Department of Food and Agriculture and county agriculture departments holding, or working under the supervision of an employee holding, a valid Qualified Applicator Certificate in Health Related Pest Control issued by the licensing and certification program of the Department of Food and Agriculture shall be exempt from this section.

[THE COMMENTARY APPEARS ON THE NEXT PAGE.]

Topic, Derivation, and Comments: DHS Fees.

The State Department of Health Services asked the Working Group to add the amendments to this section to SB 1588. The amendments add subdivision (f) and require the Department to charge reasonable fees to its vector control technician exams. At the request of labor groups, the May 30 amendments made it clear that the employing agency must pay this fee if the exam is a condition of employment. Because of subdivision (g), the resulting revenues go into the existing Mosquitoborne Disease Surveillance Account.

SEC. 10. Section 116111 is added to the Health and Safety Code, to read:

116111. The department may provide any necessary and proper assistance and support to the vector control programs of counties, cities, cities and counties, mosquito abatement and vector control districts, and pest abatement districts.

Topic, Derivation, and Comments: DHS Support.

Existing law spells out the vector biology and control programs of the State Department of Health Services (see Health & Safety Code §116110-116250). The existing law specifically allows DHS to enter into cooperative programs with local districts to control vectors (§116180). This new section is broader and allows --- but does not require --- DHS to help local vector control programs.

SEC. 11. This act is based on the recommendations of the Working Group on Revising the Mosquito Abatement District Law convened by the Senate Committee on Local Government.

Topic, Derivation, and Comments: Source.

This uncodified language signals future reviewers, including the courts, about the source of the statutory changes. Derived from Section 5 of Chapter 15 of the Statutes of 2001 (SB 707, Senate Local Government Committee, 2001), the bill that revised the state laws governing recreation and park districts.

Source Table

CALIFORNIA HEALTH AND SAFETY CODE

Division 3. Pest Abatement

Chapter 5. Mosquito Abatement and Vector Control Districts

Article 1. General Provisions

[All references are to the Health and Safety Code unless otherwise noted.]

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
2000	Name	New
2001	Legislative intent	New, PRC §5780
2002	Definitions	2200
	(a) "Abate"	New
	(b) "Board of trustees"	2200 (a)
	(c) "City"	2200 (b), PRC §5780.1 (b)
	(d) "Control"	New
	(e) "Department"	New
	(f) "District"	2200 (c)
	(g) "Principal county"	New, GC §56066
	(h) "Property"	2200 (d)
	(i) "Public agency"	New, PRC §21063
	(j) "Public nuisance"	2200 (e)
	(k) "Vector"	2200 (f)
	(l) "Voter"	New, PRC §5780.1 (i)
2003	Succession	New, PRC §5780.3
2004	Constitutional basis and liberal construction	New, §5780.5
2005	Severability	New, §5780.7
2006	Legal challenges	
	(a) Validation suits	New, PRC §5780.9
	(b) Judicial review	2280.1
2007	Area and boundaries	
	(a) Area	2210, 2330 (a), PRC §5781
	(b) Boundaries	2330, 2360, PRC §5781.1
	(c) Independent special district	New

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
Article 2. Formation		
2010	Formation authority	2201, 2210, PRC §5782
2011	Petitions and signatures (a) Petitions and financing methods (b) Standards and procedures (c) Signature requirements	2211, 2212, PRC 5782.1 (a) 5782.1 (b) 2211, PRC §5782.1 (c)
2012	Notice of intention	2212, 2213, PRC §5782.3
2013	Application by resolution	2215.5, PRC §5782.5
2014	LAFCO proceedings	New, PRC §5782.7, GC §50077 (c)
Article 3. Boards of Trustees and Officers		
2020	Board of trustees	New, PRC §5784 (a)
2021	Appointment of initial board of trustees	2240
2022	Trustees' qualifications (a) County appointees (b) City appointees (c) City councilmembers (d) Qualifications (e) Independent judgment	2243 2242 2244.5 New New, GC §56325.1
2023	Initial board of trustees (a) Authority (b) First meeting (c) Initial terms	New, PRC §5783 2247 2245, PRC §5783.13 (b)
2024	Trustees' terms of office (a) Two or four years (b) Vacancies	2245 (c) 2246, PRC §5784.3 (c), GC §1780 (a)
2025	Changing the size of the board of trustees	2240 (e)
2026	LAFCO's role	2240.1

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
2027	Officers (a) & (b) Officers (c) Treasurer	2247, PRC §5784.7 (a) & (b) 2310, PRC §5784.7. (d)
2028	Meetings	2250, 2251, 2252, PRC §5784.11
2029	Trustees' decisions (a) Quorum (b) Actions (c) Votes (d) Records (e) Rules	2253, PRC §5784.13 (a) New New, PRC §5748.13 (b) New, PRC §5784.13 (d) 2250, PRC §5784.13 (e)
2030	Trustees' compensation	2248, 2249, PRC §5784.15 (d)
Article 4. Powers		
2040	District programs (a) Surveillance (b) Prevention (c) Abatement or control (d) Any actions necessary	2291 New 2270 (a) & (b), 2291 2270 (a) & (n)
2041	Corporate powers (a) Suits (b) Property acquisition (c) Property disposal (d) Donate property (e) Purchases (f) Public works (g) Pay damages (h) Employees (i) Counsel (j) Seal (k) Insurance (l) Land use and environmental reviews (m) Any actions	New, PRC §5786.1 (a) 2270 (d) 2270 (g) GC §25372 2270 (c) 2270 (d) 2270 (e) 2270 (c), PRC §5786.1 (d) New, PRC §5786.1 (e) New, PRC §5786.1 (h) New, PRC §5786.1 (l) New 2270 (n)
2042	Conformity to local ordinances and plans	New, PRC §5786.3

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
2043	Basic operations (a) Perpetual succession (b) Name change (c) Record retention	New, PRC §5786.9 (a) 2225, PRC §5786.9 (b) New, PRC §5786.9 (c), GC §50115
2044	Cooperative action (a) Joint efforts (b) Facilities, projects, programs (c) Joint powers agreements	New, PRC §5786.11
2045	Contracts with other agencies	2283.5, PRC §5786.13
2046	Contracts	New, PRC §5786.15
2047	Misdemeanors and infractions	2292
2048	Employee relations (a) Meyers-Milias-Brown Act (b) Employee relations system	New, PRC §5786.19 (a) 2270 (j), PRC §5786.19 (b)
2049	Employee bonds	New, PRC §5786.25
2050	Employee and trustee benefits	New, PRC §5786.27
2051	Professional, educational, or vocational meetings	New, PRC §5786.29
2052	Vector control technicians	2202
2053	Enter private property	2270 (f)
2054	Filing boundaries, taxes, and assessments	New, PRC §5786.31
2055	Intergovernmental disputes	2283.5, 2294

Article 5. Abatement

2060	Public nuisance abatement	2200 (d), 2272
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<u>Section</u>	<u>Topic</u>	<u>Source*</u>
2061	Abatement proceedings (a) Authority (b) Notice (c) Service (d) Hearing (e) Abatement & penalties	2274 2275 2277, 2278, 2279 2280 2282
2062	Agricultural operations	2200 (e), 2272.5
2063	Civil penalties	2280
2064	Recurring nuisances	2281
2065	Cost recovery and abatement liens (a) Requirement (b) Deadline & assessments (c) – (e) Procedures	2283, 2862.5 GC §25845 GC §25845 (c) – (e)
2066	Public agency payments	2289, 2867
2067	Revenue collections	2868
Article 6. Finances		
2070	Annual budget	2300, PRC §5788
2071	Restricted revenues	New, PRC §5788.9
2072	Annual appropriations limit	New, PRC §5788.11
2073	Property tax allocation	2302, PRC §5788.13
2074	Contributions and borrowing (a) Contributions (b) Dry period loans	New, PRC §5788.17 (a) 2270 (h), PRC §5788.17 (b)
2075	Claims	2320
2076	Paying claims and warrants	2312, PRC §5788.23
2077	Alternative depositary and management of funds	New, PRC §5784.9, GC §61737.01-§61737.09

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
2078	Revolving fund	New, GC §53952
2079	Audits and reports	New, PRC §5788.25
Article 7. Alternative Revenues		
2080	Revenue authority	2302, PRC §5789
2081	Special taxes (a) Special taxes (b) Mello-Roos Act special taxes	2270 (m), 2302 New, PRC §5789.1 (b)
2082	Benefit assessments for vector control projects and programs (a) Authority (b) Resolution (c) Procedures (d) Collection	2291.2 (a)(1) 2291.2 (a)(2) 2291.2 (a)(3) 2291.2 (b)
2083	Special benefit assessments	PRC §5789.3, SHC §5005, §8503, 10003
2084	Exemptions	2291.5, GC §53753.5
2085	Fees (a) Authority (b) Property-related fees (c) Fees on public agencies (d) Lower fees (e) Waivers	2270 (l), PRC §5789.5 (a) New, PRC §5789.5 (b) New, HSC §13918 New, PRC §5789.5 (c) New, PRC §5789.5 (d)
Article 8. Zones		
2090	Forming zones	2291, 2291.1, 2291.2 (a), 2291.4, PRC §5791
2091	Hearing and protest	New, PRC §5791.1
2092	Zone boundaries (a) Changes (b) No LAFCO control	New, PRC §5791.3 New, PRC §5793.5
2093	Services and finances	2291.4, PRC §5791.7

Conforming Amendments: The Other Sections in SB 1588

<u>Section</u>	<u>Topic</u>	<u>Source*</u>
SECTION 1. GC §25842.5	County mosquito abatement programs	Amended
SEC. 2. GC §25850+	County EMASC revenues	Repealed
SEC. 3. GC §53753	Proposition 218 implementation	Amended
SEC. 4. GC §53961	Revolving funds	Amended
SEC 5. GC §56036	No LAFCO control over districts' zones	Amended
SEC 6. §2200+	Former statute (1939 law)	Repealed
SEC. 8. §101285	County transfers to districts	Amended
SEC. 9. §106925	DHS fees	Amended
SEC 10. §116111	DHS support	Added
SEC. 11. Uncodified	Source	Added

*** Sources**

All references are to the Health and Safety Code unless otherwise noted, as follows:

GC = Government Code

PRC = Public Resources Code

SHC = Streets and Highways Code

Disposition Table

CALIFORNIA HEALTH & SAFETY CODE Division 3. Pest Abatement Chapter 5. Mosquito Abatement Districts or Vector Control Districts Article 1. General Provisions

<u>1939 Law Section</u>	<u>Topic</u>	<u>SB 1588 Disposition*</u>
2200	Definitions.	2002
2001	Notice and district formation.	2010
2002	Certified vector control technicians.	2052
Article 2. Formation		
2210	Formation. Minimum population.	2007
2211	Formation petitions.	2011
2212	Petition contents.	2011
2213	Notice in another county.	2012
2214	Petition format.	2011
2215	Public hearing notice.	2014
2215.5	Application by resolution.	2013
2216	County supervisors hearing.	2014
2217	Defective petitions.	2011
2218	Setting boundaries.	2014
2219	Adding territory.	2014
2220	City approval needed.	Repealed
2221	County supervisors hearing.	2014
2222	Conclusive findings.	2014
2223	Formation order. District name.	2014
2224	Filing formation documents.	2014
2225	Name change.	2043
2226	Filing the name change.	2043

Article 3. Officers

1939 Law Section	Topic	SB 1588 Disposition
2240	Appointment of trustees.	2021
2240.1	Expanding boards of trustees.	2026
2241	Board's name.	Repealed
2242	Trustee's qualifications (city).	2022
2243	Trustee's qualifications (county).	2022
2244	Trustee's qualifications (at-large).	2022
2244.5	City councilmembers as trustees.	2022
2245	Initial terms of office.	2023
2246	Filling vacancies.	2024
2247	Initial meeting. Officers.	2023, 2027
2248	Trustees' compensation.	2030
2249	Secretary's compensation.	2030
2250	Board meetings.	2028
2251	Special meetings.	2028
2252	Open meetings.	2028
2253	Quorum.	2029

Article 4. Powers

2270	District powers.	2040, 2041
2271	[repealed]	
2272	Public nuisance abatement.	2060
2272.5	Nuisance abatement for flies.	2062
2273	Alternative abatement procedures.	Repealed
2274	Notice to abate.	2061
2275	Notice contents.	2061
2276	[repealed]	
2277	Serving notice.	2061
2278	Serving notice.	2061

1939 Law Section	Topic	SB 1588 Disposition
2279	Posting and mailing notice.	2061
2280	Hearing and penalties.	2061
2280.1	Standard of review.	2006
2281	Recurring nuisances.	2064
2282	Abatement by district.	2061
2283	Owner pays district.	2061, 2063, 2064
2283.5	Nuisances on public property.	2066, 2045
2284	Costs become liens.	2065
2285	Recording liens.	2065
2285.5	Releasing liens.	2065
2286	Foreclosing liens.	2065
2287	Foreclosure suits.	2065
2288	Lien recovery.	2065
2289	Public property exemption.	2066
2290	Rats.	Repealed
2290.5	Rat abatement.	Repealed
2291	Vector surveillance and control.	2040
2291.1	Area served.	2040, 2090+
2291.2	Benefit assessments.	2082, 2093
2291.3	Exclusive procedures.	Repealed
2291.4	Taxes and benefit assessments.	2093
2291.5	Older assessments.	2084
2291.7	Algae control in Lake County.	Repealed
2292	Interference and misdemeanors.	2047
2293	[blank]	
2294	Intergovernmental disputes.	2055

Article 5. Finances and Taxation

1939 Law Section	Topic	SB 1588 Disposition
2300	Annual budget and reserves.	2070, 2071
2301	[repealed]	
2302	Property tax allocation.	2073
2303	Special taxes.	2080, 2081
2304	Tax election.	Repealed
2305	Tax ballots.	Repealed
2306	Ballot language.	Repealed
2307	Election results.	Repealed
2308	Tax levy.	Repealed
2309	Tax collection.	Repealed
2310	Multi-county districts' funds.	2027
2311	Inter-county transfers.	Repealed
2312	Payment warrants.	2076

Article 5.1. Standby Charges for Public Health Emergencies

2315	Policy on standby charges.	Repealed
2316	Adopting standby charges.	Repealed
2317	Use of revenues.	Repealed
2318	Collecting standby charges.	Repealed
2319	Fund priority.	Repealed

Article 5.5. Claims

2320	Claims.	2075
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Article 6. Annexation

2330	Annexation.	2007
2331	Prior consent.	Repealed
2332	Annexation conditions.	Repealed

Article 6.5. Withdrawal

**1939 Law
Section**

Topic

**SB 1588
Disposition**

[repealed in 1965]

Article 7. Consolidation

2360

Consolidation.

2007

Article 8. Dissolution

[repealed in 1965]

Article 9. Changes in Common Boundary

[repealed in 1965]

* **NOTE**: All references are to the Public Resources Code.

Participation in the Working Group Meetings

<u>Participant</u>	<u>January 11</u>	<u>January 18</u>	<u>March 15</u>	<u>March 28</u>	<u>May 23</u>
<u>Trustees</u>					
Beck	No	No	Yes	Yes	Yes
Jameson	Yes	Yes	Yes	Yes	Yes
MacBride	No	No	No	No	No
<u>Managers</u>					
Dill	Yes	No	Yes	Yes	Yes
Hazelrigg	Yes	Yes	Yes	Yes	No
Stroh	No	Yes	Yes	Yes	No
<u>Experts</u>					
Beesley	No	No	No	Yes	No
Cline	Yes	Yes	Yes	Yes	Yes
Eldridge	Yes	Yes	Yes	Yes	Yes
Gerry	Yes	Yes	Yes	Yes	Yes
Myers	Yes	Yes	No	No	Yes
<u>Associations</u>					
Mulberg	Yes	Yes	Yes	Yes	Yes
Voight	Yes	Yes	Yes	No	No
Heim	No	Yes	Yes	Yes	Yes
Malan	Yes	No	No	No	No
Gamper	Yes	No	Yes	No	No
Keene	No	No	No	No	No
McCarthy	No	No	No	No	No
Coupal	No	No	No	No	No
Carrigg	No	No	Yes	No	No

Inventory of Mosquito Abatement and Vector Control Districts, 1999-00

<u>District</u>	<u>County</u>
Alameda County Mosquito Abatement District	Alameda
Butte County Mosquito & Vector Control District	Butte
Durham Mosquito Abatement District	Butte
Oroville Mosquito Abatement District	Butte
Colusa Mosquito Abatement District	Colusa
Contra Costa Mosquito Abatement District	Contra Costa
Coalinga-Huron Mosquito Abatement District	Fresno
Consolidated Mosquito Abatement District	Fresno
Fresno Mosquito & Vector Control District	Fresno
Fresno Westside Mosquito Abatement District	Fresno
Glenn County Mosquito Abatement District No. 1	Glenn
Delano Mosquito Abatement District	Kern
Kern Mosquito & Vector Control District	Kern
South Fork Mosquito Abatement District	Kern
West Side Mosquito & Vector Control District	Kern
Kings Mosquito Abatement District	Kings
Lake County Vector Control District	Lake
Antelope Valley Mosquito Abatement District	Los Angeles
Compton Creek Mosquito Abatement District	Los Angeles
Los Angeles County West Vector Control District	Los Angeles
San Gabriel Valley Mosquito & Vector Control District	Los Angeles
Greater Los Angeles County Vector Control District	Los Angeles
Madera Mosquito Abatement District	Madera
Marin-Sonoma Mosquito & Vector Control District	Marin & Sonoma
Merced County Mosquito Abatement District	Merced
June Lake Loop Mosquito Abatement District	Mono
Northern Salinas Valley Mosquito Abatement District	Monterey
Napa County Mosquito Abatement District	Napa
Orange County Vector Control District	Orange
Coachella Valley Mosquito & Vector Control District	Riverside
Northwest Mosquito & Vector Control District	Riverside
Sacramento-Yolo Mosquito & Vector Control District	Sacramento & Yolo
West Valley Vector Control District	San Bernardino
San Joaquin County Mosquito & Vector Control District	San Joaquin
San Mateo County Mosquito Abatement District	San Mateo
Santa Barbara Coastal Vector Control District	Santa Barbara
Burney Basin Mosquito Abatement District	Shasta
Pine Grove Mosquito Abatement District	Shasta
Shasta Mosquito & Vector Control District	Shasta
Solano County Mosquito Abatement District No. 1	Solano
Turlock Mosquito Abatement District	Stanislaus
Eastside Mosquito Abatement District	Stanislaus
Sutter-Yuba Mosquito Abatement District	Sutter & Yuba
Tehama County Mosquito Abatement District	Tehama
Delta Vector Control-Mosquito Abatement District	Tulare
Tulare Mosquito Abatement District	Tulare

Source: Table 13, General Purpose Transactions, *Special Districts Annual Report, Fiscal Year 1999-00*, Sacramento: State Controller's Office, April 2003.

Mosquito Abatement Districts With Revenues Over \$250,000

The Mosquito Abatement District Law allows districts with annual revenues greater than \$250,000 to withdraw their funds from the county treasurer and manage their own fiscal affairs (Health and Safety Code §2077). At least 35 mosquito abatement districts qualify:

<u>District</u>	<u>County</u>	<u>Revenues</u>
Alameda County Mosquito Abatement District	Alameda	\$1,568,795
Butte County Mosquito & Vector Control District	Butte	1,418,896
Contra Costa Mosquito Abatement District	Contra Costa	1,808,125
Consolidated Mosquito Abatement District	Fresno	1,718,158
Fresno Mosquito & Vector Control District	Fresno	876,786
Fresno Westside Mosquito Abatement District	Fresno	587,046
Delano Mosquito Abatement District	Kern	563,589
Kern Mosquito & Vector Control District	Kern	2,435,738
West Side Mosquito & Vector Control District	Kern	1,066,838
Kings Mosquito Abatement District	Kings	1,012,601
Lake County Vector Control District	Lake	648,419
Antelope Valley Mosquito Abatement District	Los Angeles	401,469
Los Angeles County West Vector Control District	Los Angeles	2,170,423
San Gabriel Valley Mosquito & Vector Control District	Los Angeles	1,592,243
Greater Los Angeles County Vector Control District	Los Angeles	5,258,958
Madera Mosquito Abatement District	Madera	797,113
Marin-Sonoma Mosquito & Vector Control District	Marin & Sonoma	4,355,634
Merced County Mosquito Abatement District	Merced	1,523,097
Northern Salinas Valley Mosquito Abatement District	Monterey	956,781
Napa County Mosquito Abatement District	Napa	467,619
Orange County Vector Control District	Orange	4,342,664
Coachella Valley Mosquito & Vector Control District	Riverside	2,976,871
Northwest Mosquito & Vector Control District	Riverside	1,060,498
Sacramento-Yolo Mosquito & Vector Control District	Sacramento & Yolo	5,522,491
West Valley Vector Control District	San Bernardino	1,115,415
San Joaquin County Mosquito & Vector Control District	San Joaquin	3,179,306
San Mateo County Mosquito Abatement District	San Mateo	1,425,192
Santa Barbara Coastal Vector Control District	Santa Barbara	347,639
Shasta Mosquito & Vector Control District	Shasta	1,253,018
Solano County Mosquito Abatement District No. 1	Solano	1,066,483
Turlock Mosquito Abatement District	Stanislaus	921,825
Eastside Mosquito Abatement District	Stanislaus	1,151,440
Sutter-Yuba Mosquito Abatement District	Sutter & Yuba	1,555,592
Delta Vector Control Mosquito Abatement District	Tulare	1,159,487
Tulare Mosquito Abatement District	Tulare	627,937

Source: Table 13, General Purpose Transactions, *Special Districts Annual Report, Fiscal Year 1999-00*, Sacramento: State Controller's Office, April 2003.

Sources and Credits

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

“An Approach to Analysis,” (memo), Sacramento: Senate Housing and Land Use Committee, November 30, 1995.

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Assembly Final History, Forty-Eighth Session, Sacramento: Office of the Assembly Chief Clerk, 1929. <http://192.234.213.35/clerkarchive/>

California Blue Book, 1850-2000, Hummelt, Brown, & McNulty, eds., Sacramento: Office of Secretary of the Senate, 2000.

“Evolution of Mosquito Control in California,” (Chapter 2), in Manual for Mosquito Control Personnel, Thomas H. Mulhern, ed., Visalia: California Mosquito Control Association Press, 1973.

“Mosquito Control in California,” Charles Myers, author’s manuscript, n.d. (1972?)

Parks, Progress, and Public Policy: A Legislative History of Senate Bill 707 and the “Recreation and Park District Law”, Sacramento: Senate Local Government Committee, October 2001.

* * * * *

Peter Detwiler, staff director for the Senate Local Government Committee, prepared this report with production assistance from Elvia Diaz, the Committee Assistant. Useful comments on the draft report came from:

- Al Beck, Butte County Mosquito and Vector Control District.
- Frances Chacon, Assembly Local Government Committee.
- Becky Cline, Fresno Westside Mosquito Abatement District
- Charlie Dill, Placer Mosquito Abatement District.
- John Gamper, California Farm Bureau Federation.
- Alec Gerry, UC Riverside.
- Ginger Huber, El Dorado County Environmental Management Department.
- David Jameson, Contra Costa Mosquito Abatement District.
- Charles Myers, State Department of Health Services (retired).
- Elliot Mulberg, Elk Grove Community Services District.
- Frank Ramirez, Governor’s Office of Planning and Research.
- John Stroh, San Joaquin County Mosquito and Vector Control District.