

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL

No. 184

Introduced by Committee on Governance and Finance (Senators Hertzberg (Chair), Bates, Beall, Hernandez, Lara, Nguyen, and Pavley)

February 9, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

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

Existing

(1) Existing law authorizes specified local entities, including cities, counties, special districts, and other authorized public corporations, to collect fees, tolls, rates, rentals, or other charges for water, sanitation, storm drainage, or sewerage system services and facilities. Under existing law, a local entity may collect these charges on the property tax roll at the same time and in the same manner as its general property taxes. If the entity collects these charges in this way, existing law requires the entity to prepare and file with its clerk or secretary a report describing each parcel of property receiving the above-described services and the amount charged. Existing law requires the clerk or secretary to

annually file the report with the auditor. Existing law also authorizes these local entities to fix fees or charges for the privilege of connecting parcels of property to their sanitation or sewerage facilities, subject to specified procedures. Existing law requires the legislative body of the local entity to annually file with the auditor a list of lots or parcels of land subject to these fees or charges and the amounts of the installments of the fees or charges to be entered against the affected lots or parcels of land. Existing law requires the auditor to enter on the assessment roll the amounts of installments of these fees or charges. Existing law defines the auditor, for the purposes of these provisions, as the financial officer of the local entity.

This bill would clarify that the above-described provisions relating to the authority and duties of the auditor apply only to the county auditor. The bill would also make technical, nonsubstantive changes to these provisions.

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

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

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

This bill would repeal this requirement.

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

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

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

This bill would delete that endorsement requirement.

Existing law requires, before a recorder accepts it for recording, a deed or instrument executed to convey fee title to real property to note

across the bottom of the first page the name and address to which future tax statements may be mailed.

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

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

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

The Subdivision Map Act and local ordinances authorize or require, under specified circumstances, the furnishing of specified types of security with respect to the performance of various acts or agreements subject to the act. Existing law, until January 1, 2016, also sets forth the specific requirements imposed on a local agency for the complete or partial release of a performance security furnished by a subdivider.

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

(4) Existing law, the Uniform Public Construction Cost Accounting Act (UPCCAA), establishes the California Uniform Construction Cost Accounting Commission, which is responsible for recommending, for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the construction of public projects. Existing law requires the commission to consist of 14 members, including 2 members who represent school districts, one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000. Existing law requires that members of

the commission hold office for terms of 3 years and until their successors are appointed, and requires the Controller to appoint a replacement to fill a vacancy on the commission within 90 days after the expiration of any term. Existing law requires that each member of the commission serve without compensation, but requires them to be reimbursed for travel and other expenses, as provided.

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

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

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

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

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

The UPCCAA requires the commission to review the accounting procedures of any participating public agency if an interested party presents evidence that the work undertaken by the public agency falls within specified categories, and provides procedures by which an interested party must make a request.

This bill would additionally require the commission to review the nonaccounting practices of any participating public agency if an interested party presents evidence that the public agency is not in compliance with the UPCCAA's provisions, and would require that this request be in writing, sent by certified or registered mail.

The UPCCAA requires the commission to prepare written findings after it reviews an agency's compliance with the act or uniform cost

accounting procedures, requires the public agency to present the commission’s findings to its government body, and requires that governing body to conduct a public hearing regarding those findings within 30 days of receipt of the findings, as provided.

This bill, regarding review of compliance with the act or uniform cost accounting procedures, would require the commission to prepare its written findings within 30 business days, would require the public agency to present the commission’s findings to the governing body of that agency within 30 calendar days of the commission’s review, and would require that governing body to hold a public hearing regarding the commission’s findings within 60 days, instead of 30 days, of receiving those findings. The bill, for commission findings relating to nonaccounting practices, would require the agency to notify its governing body of the commission’s findings within 30 calendar days of receipt of written notice of the findings, and would require the agency to notify the commission in writing, within 60 calendar days, of the public agency’s efforts to comply, as specified.

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

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

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

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

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. (a) This act shall be known, and may be cited,
- 2 as the Local Government Omnibus Act of ~~2014~~ 2015.
- 3 (b) The Legislature finds and declares that Californians want
- 4 their governments to be run efficiently and economically and that

1 public officials should avoid waste and duplication whenever
 2 possible. The Legislature further finds and declares that it desires
 3 to control its own costs by reducing the number of separate bills.
 4 Therefore, it is the intent of the Legislature in enacting this act to
 5 combine several minor, noncontroversial statutory changes relating
 6 to the common theme, purpose, and subject of local government
 7 into a single measure.

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

10 27202. Upon the request of any officer of the United States,
 11 the county recorder shall record instruments to which the United
 12 States is a party without payment of the recording fee in advance
 13 and shall execute the proper government voucher for payment.
 14 Upon payment of the fee he shall transmit it payment, the fee shall
 15 be transmitted to the treasurer Treasurer with his the recorder's
 16 first settlement after the collection.

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

19 27203. (a) Any recorder to whom an instrument proved or
 20 acknowledged according to law or any paper or notice which may
 21 by law be recorded is delivered for record is liable to the party
 22 aggrieved for the amount of the damages occasioned thereby, if
 23 he or she commits any of the following acts:

24 ~~(a)-(1)~~

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

31 (2) The recorder may provide, to any person presenting a
 32 document the recorder determines to be an unrecordable document,
 33 a form stating that the person has the right to judicial review in a
 34 court of competent jurisdiction of the recorder's refusal to record
 35 the document. The form shall include a section stating the
 36 recorder's reason for refusing the document. The form shall provide
 37 notice that it is a public offense to further attempt to record the
 38 document without an order of the court as provided by Section
 39 27204. The recorder shall keep a correct copy of the refused
 40 document. In the event the document is determined by the court

1 to be a recordable document, the recorder shall pay the filing fees
2 for the review, and shall record the document within a reasonable
3 time.

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

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

9 (d) Alters, changes, obliterates or inserts any new matter in any
10 records deposited in ~~his~~ *the recorder's* office. The recorder may
11 make marginal notations on ~~the records in his office indicating the~~
12 ~~affixing of internal revenue stamps to documents subsequent to~~
13 ~~recording or the affixing of such stamps to original deeds on file~~
14 ~~in the office of the registrar of titles records as part of the~~
15 ~~recording process.~~

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

18 27203.5. If the recorder willfully and maliciously commits any
19 of the acts described in Section 27203 or ~~if he~~ derives a personal
20 financial benefit from committing any of those acts, ~~he~~ *the recorder*
21 is liable to the party aggrieved for three times the amount of
22 damages occasioned thereby.

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

25 27210. The county recorder may use a printed, stamped or
26 photographically reproduced facsimile signature in certifying to
27 a record in ~~his~~ *the recorder's* office provided such certification
28 has the seal of ~~his~~ *the recorder's* office affixed thereto.

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

31 27211. The recorder shall keep an official seal of ~~his~~ *the*
32 *recorder's* office which shall, when embossed, stamped, impressed
33 or affixed to a certification, show legibly.

34 Such seal shall:

35 (a) Be circular in shape;

36 (b) Be not less than 1 ¼ inches and not more than two inches
37 in diameter;

38 (c) Have in the center any words or design adopted by the
39 recorder;

1 (d) Have inscribed around the central words or design,
2 “Recorder, ____ County, California,” inserting therein the name
3 of the county.

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

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

9 27230. The recorder shall procure such books for records as
10 the business of ~~his~~ *the recorder's* office requires, but orders for
11 the books shall first be obtained from the board of supervisors.
12 The books used may contain printed forms of deeds, mortgages,
13 or other instruments of general use.

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

16 27231. The recorder has the custody of, and shall keep all
17 books, records, maps, and papers deposited in ~~his~~ *the recorder's*
18 office.

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

20 27251. ~~The recorder shall keep an index of the separate property~~
21 ~~of married women, labeled: “Separate property,” each page divided~~
22 ~~into five columns, headed respectively: “Names of married~~
23 ~~women,” “Names of their husbands,” “Nature of instruments~~
24 ~~recorded,” “When recorded,” and “Where recorded.”~~

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

27 27256. The recorder shall keep such other indices as are
28 required in the performance of ~~his~~ official duties.

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

31 27257. Instead of those indices indicated in this division, the
32 recorder may utilize either of the following systems of indexing:

33 (a) The recorder may keep two indices, labeled respectively:
34 “General index of grantors” (names of grantors, defendants, and
35 first parties, who would otherwise be indexed in any of the other
36 indices specified in this article) and “General index of grantees”
37 (names of grantees, plaintiffs, and second parties, who would
38 otherwise be indexed in any of the other indices specified in this
39 article). Each page of the general index of grantors shall be divided
40 into seven columns, labeled respectively: “Date filed,” “Grantors

1 and defendants,” “Grantees and plaintiffs,” “Title,” “Document
2 number,” “Book,” and “Page.” Each page of the general index of
3 grantees shall be divided into seven columns, labeled respectively:
4 “Date filed,” “Grantees and plaintiffs,” “Grantors and defendants,”
5 “Title,” “Document number,” “Book,” and “Page”; or

6 (b) The recorder may combine the general index of grantors
7 and the general index of grantees into a single index which shall
8 alphabetically combine the grantors and grantees as defined in
9 subdivision (a). Each page of the “General grantor-grantee index”
10 shall be divided into seven columns, labeled respectively: “Date
11 filed,” “Grantors-grantees,” ~~“Grantees-grantors,”~~
12 “*Grantees-grantors*,” “Title,” “Document number,” “Book,” and
13 “Page.” Where such a combined index is used, the names of the
14 grantors shall be distinguished from the names of the grantees, as
15 respectively defined in subdivision (a), by an easily recognizable
16 mark or symbol.

17 **Indexing**

18 (c) *Indexing* as enumerated in subdivisions (a) and (b) above
19 may be in lieu of indexing in any of the other indices, and shall
20 impart notice in like manner and effect as the indexing would
21 otherwise impart in the other indices provided for in this division.
22 If the recorder keeps any other index, ~~he~~ *the recorder* shall not be
23 required to index those names in the general index as enumerated
24 in subdivisions (a) and (b) above. Nothing in this section shall
25 prevent the recorder from indexing any names which also appear
26 in any other of ~~his~~ *the recorder’s* indices.

27 **Where**

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

34 **The**

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

39 **The**

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

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

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

16 27320. When any instrument authorized by law to be recorded
 17 is deposited in the recorder’s office for record, the recorder shall
 18 endorse upon it in the order in which it is deposited, the year,
 19 month, day, hour, and minute of its reception, and the amount of
 20 fees for recording. The recorder shall record it without delay,
 21 together with the acknowledgements, proofs, certificates, and prior
 22 recording data written upon or annexed to it, with the plats, surveys,
 23 schedules, and other papers thereto annexed, and shall note on the
 24 record its identification number, ~~and the name of the person at~~
 25 ~~whose request it is recorded~~ number. Efforts shall be made to
 26 assign identification numbers sequentially, but an assignment of
 27 a nonsequential number may be made if not in violation of express
 28 recording instructions regarding a group of concurrently recorded
 29 instruments and if, in the discretion of the county recorder, such
 30 assignment best serves the interest of expeditious recording.

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

33 27321. (a) The recorder shall endorse upon each instrument
 34 the identification number or book and page where it is recorded,
 35 and shall thereafter ~~mail, or if specified to the contrary deliver,~~
 36 ~~mail~~ it to the person named in the instrument for return mail, ~~and~~
 37 ~~if no such person is named, to the party leaving~~ or deliver it to the
 38 party presenting it for record.

39 Where

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

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

12 27321.5. Before acceptance for recording, in addition to the
13 address required on each document for delivery by the recorder,
14 all of the following shall apply:

15 (a) Every deed or instrument executed to convey fee title to real
16 property shall have noted ~~across the bottom of~~ on the first page or
17 sheet thereof the name and address to which future tax statements
18 may be ~~mailed; and,~~ mailed.

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

26 However, the

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

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

35 27360. For services performed by ~~him;~~ the recorder's office,
36 the county recorder shall charge and collect the fees fixed in this
37 article.

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

1 66497. (a) Within five days after the final setting of all
2 monuments has been completed, the engineer or surveyor shall
3 give written notice to the subdivider, and to the city engineer or
4 the county surveyor or any other public official or employee
5 authorized to receive these notices, that the final monuments have
6 been set.

7 ~~Upon~~

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

14 ~~If~~

15 (c) If the subdivider does not present evidence to the legislative
16 body that the engineer or surveyor has been paid for the setting of
17 the final monuments, and if the engineer or surveyor notifies the
18 legislative body that payment has not been received from the
19 subdivider for the setting of the final monuments, the legislative
20 body shall, within three months from the date of the notification,
21 pay to the engineer or surveyor from any deposit the amount due.

22 (d) *The legislative body may authorize any public officer or*
23 *employee to release or reduce the amount of the cash deposit to*
24 *pay the engineer or surveyor for setting the final monuments*
25 *pursuant to the conditions specified in this section. The legislative*
26 *body may prescribe additional rules related to this authorization.*

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

29 66499.7. The security furnished by the subdivider shall be
30 released in whole or in part in the following manner:

31 (a) Security given for faithful performance of any act or
32 agreement shall be released upon the performance of the act or
33 final completion and acceptance of the required work. The
34 legislative body may provide for the partial release of the security
35 upon the partial performance of the act or the acceptance of the
36 work as it progresses, consistent with the provisions of this section.
37 The security may be a surety bond, a cash deposit, a letter of credit,
38 escrow account, or other form of performance guarantee required
39 as security by the legislative body that meets the requirements as
40 acceptable security pursuant to law. If the security furnished by

1 the subdivider is a documentary evidence of security such as a
2 surety bond or a letter of credit, the legislative body shall release
3 the documentary evidence and return the original to the issuer upon
4 performance of the act or final completion and acceptance of the
5 required work. In the event that the legislative body is unable to
6 return the original documentary evidence to the issuer, the security
7 shall be released by written notice sent by certified mail to the
8 subdivider and issuer of the documentary evidence within 30 days
9 of the acceptance of the work. The written notice shall contain a
10 statement that the work for which the security was furnished has
11 been performed or completed and accepted by the legislative body,
12 a description of the project subject to the documentary evidence
13 and the notarized signature of the authorized representative of the
14 legislative body.

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

25 (c) Within 45 days of receipt of the list of remaining work from
26 the local agency, the subdivider may then provide cost estimates
27 for all remaining work for review and approval by the local agency.
28 Upon receipt of the cost estimates, the local agency shall then have
29 45 days to review, comment, and approve, modify, or disapprove
30 those cost estimates. No local agency shall be required to engage
31 in this process of partial release more than once between the start
32 of work and completion and acceptance of all work; however,
33 nothing in this section prohibits a local agency from allowing for
34 a partial release as it otherwise deems appropriate.

35 (d) If the local agency approves the cost estimate, the local
36 agency shall release all performance security except for security
37 in an amount up to 200 percent of the cost estimate of the
38 remaining work. The process allowing for a partial release of
39 performance security shall occur when the cost estimate of the
40 remaining work does not exceed 20 percent of the total original

1 performance security unless the local agency allows for a release
2 at an earlier time. Substitute bonds or other security may be used
3 as a replacement for the performance security, subject to the
4 approval of the local agency. If substitute bonds or other security
5 is used as a replacement for the performance security released, the
6 release shall not be effective unless and until the local agency
7 receives and approves that form of replacement security. A
8 reduction in the performance security, authorized under this section,
9 is not, and shall not be deemed to be, an acceptance by the local
10 agency of the completed improvements, and the risk of loss or
11 damage to the improvements and the obligation to maintain the
12 improvements shall remain the sole responsibility of the subdivider
13 until all required public improvements have been accepted by the
14 local agency and all other required improvements have been fully
15 completed in accordance with the plans and specifications for the
16 improvements.

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

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

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

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

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

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

11 ~~(k) This section shall remain in effect only until January 1, 2016,~~
12 ~~and as of that date is repealed, unless a later enacted statute, that~~
13 ~~is enacted before January 1, 2016, deletes or extends that date.~~

14 ~~SEC. 2.~~

15 *SEC. 18.* Section 5473.4 of the Health and Safety Code is
16 amended to read:

17 5473.4. On or before August 10 of each year following the
18 final determination upon each charge, the clerk shall file with the
19 county auditor a copy of the report prepared pursuant to Section
20 5473 with a statement endorsed on the report over his or her
21 signature that the report has been finally adopted by the legislative
22 body of the entity and the county auditor shall enter the amounts
23 of the charges against the respective lots or parcels of land as they
24 appear on the current assessment roll. Where any of the parcels
25 are outside the boundaries of the entity they shall be added to the
26 assessment roll of the entity for the purpose of collecting the
27 charges. If the property is not described on the roll, the county
28 auditor may enter the description on the roll together with the
29 amounts of the charges, as shown in the report.

30 ~~SEC. 3.~~

31 *SEC. 19.* Section 5474.4 of the Health and Safety Code is
32 amended to read:

33 5474.4. On or before August 10 of each year following the
34 final determination, the legislative body shall certify to the county
35 auditor a list of the lots or parcels of land, as they appear on the
36 current assessment roll, subject to any fees or charges and the
37 amounts of the installments of those fees or charges and interest
38 to be entered against the lots or parcels on the assessment roll. In
39 the event a lot or parcel connected to the facilities is subsequently
40 divided into two or more lots or parcels as shown on the current

1 assessment roll, the legislative body shall designate the lot or parcel
2 that remains connected to the facilities and against which the
3 installments of the fees or charges and interest are to be entered.

4 ~~SEC. 4.~~

5 *SEC. 20.* Section 5474.5 of the Health and Safety Code is
6 amended to read:

7 5474.5. The county auditor shall enter on the current assessment
8 roll the amounts of the installments of any fees or charges and
9 interest and, except as provided in Section 5474.6, the amounts
10 thereof shall constitute a lien against the lot or parcel of land
11 against which levied as of noon on the first Monday in March
12 immediately preceding the date of entry.

13 *SEC. 21.* Section 20200 of the Public Contract Code is amended
14 to read:

15 20200. The provisions of this article shall apply to contracts
16 subject to the Public Utility District Act provided for in Division
17 7 (commencing with Section ~~16051~~ 15501) of the Public Utilities
18 Code.

19 *SEC. 22.* Section 22010 of the Public Contract Code is amended
20 to read:

21 22010. There is hereby created the California Uniform
22 Construction Cost Accounting Commission. The commission is
23 comprised of 14 members.

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

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

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

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

38 (4) Seven members who shall each be experienced in, and
39 knowledgeable of, public works construction under contracts let
40 by public agencies; two each representing cities, counties,

1 respectively, and two *members* representing school districts ~~(one~~
2 ~~with an average daily attendance over 25,000 and one with an~~
3 ~~average daily attendance under 25,000);~~ *districts*, and one member
4 representing a special district. At least one of the two county
5 representatives shall be a county auditor or his or her designee.

6 (b) The member of the Contractors' State License Board who
7 is a general engineering contractor as that term is defined in Section
8 7056 of the Business and Professions Code shall serve as an ex
9 officio voting member.

10 *SEC. 23. Section 22014 of the Public Contract Code is amended*
11 *to read:*

12 22014. (a) The members of the commission shall hold office
13 for terms of three years, and until their successors are ~~appointed,~~
14 ~~except as otherwise provided for in this section~~ *appointed.*

15 ~~(b) In the case of members initially appointed by the Controller,~~
16 ~~two representing the construction industry and two representing~~
17 ~~public agencies shall be appointed to serve until July 1, 1985; two~~
18 ~~representing the construction industry and two representing public~~
19 ~~agencies shall be appointed to serve until July 1, 1986; and three~~
20 ~~representing the construction industry and three representing public~~
21 ~~agencies shall be appointed to serve until July 1, 1987.~~

22 (e)

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

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

27 (d) The Controller shall, ~~within 90 days after the expiration of~~
28 ~~any term,~~ *120 days,* appoint a replacement to fill ~~the~~ *any* vacancy
29 on the commission.

30 *SEC. 24. Section 22015 of the Public Contract Code is amended*
31 *to read:*

32 22015. (a) The Controller shall make available for the conduct
33 of the commission's business, such staff and other support as does
34 not conflict with the accomplishment of the other business of the
35 office of the Controller.

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

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

5 *SEC. 25. Section 22017 of the Public Contract Code is amended*
6 *to read:*

7 22017. The commission shall do all of the following:

8 (a) After due deliberation and study, recommend for adoption
9 by the Controller, uniform construction cost accounting procedures
10 for implementation by public agencies in the performance of, or
11 in contracting for, construction on public projects. The procedures
12 shall, to the extent deemed feasible and practicable by the
13 commission, incorporate, or be consistent with construction cost
14 accounting procedures and reporting requirements utilized by state
15 and federal agencies on public projects, and be uniformly
16 applicable to all public agencies which elect to utilize the uniform
17 procedures. As part of its deliberations and review, the commission
18 shall take into consideration relevant provisions of Office of
19 Management and Budget Circular ~~A-76~~ A-76, *as periodically*
20 *revised.*

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

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

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

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

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

4 *SEC. 26. Section 22034 of the Public Contract Code is amended*
5 *to read:*

6 22034. Each public agency that elects to become subject to the
7 uniform construction accounting procedures set forth in Article 2
8 (commencing with Section 22010) shall enact an informal bidding
9 ordinance to govern the selection of contractors to perform public
10 projects pursuant to subdivision (b) of Section 22032. The
11 ordinance shall include all of the following:

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

14 (a)

15 (1) The public agency shall maintain a list of qualified
16 contractors, identified according to categories of work. Minimum
17 criteria for development and maintenance of the contractors list
18 shall be determined by the commission. *All contractors on the list*
19 *for the category of work being bid shall be mailed, faxed, or*
20 *emailed a notice inviting informal bids unless the product or*
21 *service is proprietary. All mailing of notices to contractors*
22 *pursuant to this subdivision shall be completed not less than 10*
23 *calendar days before bids are due.*

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

27 ~~(b) All contractors on the list for the category of work being bid~~
28 ~~or all construction trade journals specified in Section 22036, or~~
29 ~~both all contractors on the list for the category of work being bid~~
30 ~~and all construction trade journals specified in Section 22036, shall~~
31 ~~be mailed a notice inviting informal bids unless the product or~~
32 ~~service is proprietary.~~

33 ~~(c) All mailing of notices to contractors and construction trade~~
34 ~~journals pursuant to subdivision (b) shall be completed not less~~
35 ~~than 10 calendar days before bids are due.~~

36 ~~(d)~~

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

40 (e)

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

4 (f)

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

12 *SEC. 27. Section 22036 of the Public Contract Code is amended*
13 *to read:*

14 22036. The commission shall determine, on a county-by-county
15 basis, the appropriate construction trade journals which shall
16 receive mailed, *faxed, or emailed* notice of all informal and formal
17 construction contracts being bid for work within the specified
18 county.

19 *SEC. 28. Section 22039 of the Public Contract Code is amended*
20 *to read:*

21 22039. The governing body of the ~~public agency~~ *participating*
22 *public agency or its designated representative* shall adopt plans,
23 specifications, and working details for all public projects exceeding
24 the amount specified in subdivision (c) of Section 22032.

25 *SEC. 29. Section 22042.5 is added to the Public Contract Code,*
26 *to read:*

27 22042.5. *The commission shall review the nonaccounting*
28 *practices of any participating public agency where an interested*
29 *party presents evidence that the public agency is not in compliance*
30 *with the provisions of this chapter.*

31 *SEC. 30. Section 22043 of the Public Contract Code is amended*
32 *to read:*

33 22043. (a) In those circumstances set forth in subdivision (a)
34 of Section 22042, a request for commission review shall be in
35 writing, sent by certified or registered mail received by the
36 commission postmarked not later than eight business days from
37 the date the public agency has rejected all bids.

38 (b) In those circumstances set forth in subdivision (b) or (c) of
39 Section 22042, a request for commission review shall be by letter

1 received by the commission not later than eight days from the date
2 an interested party formally complains to the public agency.

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

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

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

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

13 (e) *A request for commission review pursuant to Section 22042.5*
14 *shall be in writing, sent by certified or registered mail.*

15 *SEC. 31. Section 22044 of the Public Contract Code is amended*
16 *to read:*

17 22044. The commission shall prepare written findings, *which*
18 *shall be presented to the public agency within 30 calendar days*
19 *of formal commission review.* Should the commission find that the
20 provisions of this chapter or of the uniform cost accounting
21 procedures provided for in this chapter were not complied with by
22 the public agency, the following steps shall be implemented by
23 that agency:

24 (a) On those projects set forth in subdivision (a) of Section
25 22042, the public agency has the option of either (1) abandoning
26 the project, or (2) awarding the project to the lowest responsible
27 bidder.

28 (b) On those projects set forth in subdivision (b) or (c) of Section
29 22042, the public agency shall present the commission's findings
30 to its governing body *within 30 calendar days of receipt of written*
31 *notice of the findings* and that governing body shall conduct a
32 public hearing with regard to the commission's findings within ~~30~~
33 *60 calendar days of receipt of the findings.*

34 (c) (1) *For nonaccounting practices pursuant to Section*
35 *22042.5, the public agency shall notify its governing body of the*
36 *commission's findings within 30 calendar days of receipt of written*
37 *notice of the findings.*

38 (2) *The public agency shall notify the commission in writing,*
39 *within 60 calendar days of receipt of written notice of the findings,*
40 *of the public agency's efforts to comply.*

1 *SEC. 32. Section 35406 of the Water Code is amended to read:*
2 35406. (a) A district may execute, by its president and
3 secretary, all contracts and other documents necessary to carry out
4 the powers and purposes of the district.

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

10 *SEC. 33. If the Commission on State Mandates determines that*
11 *this act contains costs mandated by the state, reimbursement to*
12 *local agencies and school districts for those costs shall be made*
13 *pursuant to Part 7 (commencing with Section 17500) of Division*
14 *4 of Title 2 of the Government Code.*