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2023 Legislative Update for Water/Wastewater Agencies

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INTRODUCTION

The firm of Atkinson, Andelson, Loya, Rudd & Romo is pleased to provide this legislative update to our public agency, water, and wastewater clients, and other interested parties. This legislative update includes descriptions of legislation we have viewed as pertinent to our clients but excludes matters specifically relating to public employee(s) and public employment law.

We provide the following information regarding chaptered legislation passed in the California Legislature during the 2023 Legislative Session. This information is not presented as legal advice, but as an update to public agencies.

The following Legislative Update is divided in to five sections:

1. General
2. Water
3. Construction & Contracting
4. Finance
5. Informational

The 2023 Legislative Session included Assembly Bill 557, which amended the teleconferencing requirements within the Ralph M. Brown Act ("Brown Act"). This legislation has also been the subject of an AALRR alert which is attached hereto as **Appendix A**. The California Legislature also included passed several pieces of legislation addressing the disposal of surplus property with Senate Bill 34, Senate Bill 229, Senate Bill 480 and Senate Bill 747.

It is our hope that this legislative update will be of use to our clients and other interested parties. Our contact information should you have questions with regards to any of the matters discussed or presented in this update is provided below.

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Chapter 19 – Assembly Bill No. 759 (Grayson) — Sanitary districts.

Existing law authorizes the formation of a sanitary district, pursuant to specified requirements. Existing law authorizes a sanitary district to acquire, plan, construct, reconstruct, alter, enlarge, lay, renew, replace, maintain, and operate garbage dumpsites and garbage collection and disposal systems, sewers, drains, septic tanks, and sewerage collection, outfall, treatment works and other sanitary disposal systems, and storm water drains and storm water collection, outfall and disposal systems, and water recycling and distribution systems, as the deemed necessary and proper by the governing board of the district. Existing law generally authorizes the district to expend money only upon written order of the board.

Existing law also authorizes a district board, as an alternative to the functions of the treasurer, to elect to disburse district funds upon resolution of the board and the filing of a certified copy with the treasurer. Under existing law, the treasurer is then required to deliver all district funds to the district, which can only be withdrawn by written order of the district boards, signed by the president and secretary. Existing law requires the district board to appoint a treasurer responsible for the deposit and withdrawal of district funds.

This legislation instead authorizes funds to be withdrawn by a district treasurer or expended by a treasurer upon approval by the board, signed by the president and secretary. This legislation also authorizes the board to adopt specified procedures to provide payment of demands and claims without prior approval by the board if a district treasurer determines the demands are payable within the district's approved budget. The legislation also requires board approval for any payment exceeding the district's approved budget.

An act to amend Section 6801 of, and to repeal and add Section 6794 of, the Health and Safety Code, relating to sanitary districts.

Chapter 77 – Senate Bill No. 790 (Padilla) — Public records: contracts for goods and services.

Existing law, the California Public Records Act, requires public records to be open to inspection at all times during the office hours of the state or local agency that retains those records, and provides that every person has a right to inspect any public record, except as provided. The act requires state and local agencies to make public records available upon receipt of a request for a copy that reasonably describes an identifiable record not otherwise exempt from disclosure, and upon payment of fees to cover costs.

This legislation provides that any executed contract for the purchase of goods or services by a state or local agency, including the price and terms of payment, is a public record subject to

disclosure under the act. The legislation provides that any provision in a written agreement that purports to exclude a contract specified above from disclosure by agreeing to consider it a confidential or proprietary record of the vendor is void and unenforceable as a matter of law. By placing additional duties and responsibilities upon local agencies in connection with requests for inspection of records, this legislation imposes a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This legislation makes legislative findings to that effect.

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 legislation provides that no reimbursement is required by this act for a specified reason.

An act to add Section 7928.801 to the Government Code, relating to public records.

Chapter 534 – Assembly Bill No. 557 (Hart) — Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect. Those circumstances are that (1) state or local officials have imposed or recommended measures to promote social distancing, (2) the legislative body is meeting for the purpose of determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, or (3) the legislative body has previously made that determination. If there is a

continuing state of emergency, or if state or local officials have imposed or recommended measures to promote social distancing, existing law requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law requires a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option. Existing law prohibits a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time.

This legislation revises the authority of a legislative body to hold a teleconference meeting under those abbreviated teleconferencing procedures when a declared state of emergency is in effect. Specifically, the legislation extends indefinitely that authority in the circumstances under which the legislative body either (1) meets for the purpose of determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, or (2) has previously made that determination. The legislation also extends the period for a legislative body to make the above-described findings related to a continuing state of emergency to not later than 45 days after the first teleconferenced meeting, and every 45 days thereafter, in order to continue to meet under the abbreviated teleconferencing procedures.

The legislation additionally makes nonsubstantive changes to those provisions and correct erroneous cross-references.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This legislation makes legislative findings to that effect.

An act to amend and repeal Section 54953 of the Government Code, relating to local government.

Please refer to the 'Alert' below for further information regarding the recent legislative update

Appendix A – AALRR Alert – *https://www.aalrr.com/newsroom-alerts-4001*

AB 557: Zooming In on the Brown Act *(October, 17, 2023)*

On October 8, 2023, Governor Newsom signed Assembly Bill 557 (Hart) ("AB 557") into law, amending certain portions of the Ralph M. Brown Act ("Brown Act") relating to teleconference participation by members of legislative bodies for and during public meetings.

In summary, AB 557: (1) eliminates the sunset date for Assembly Bill 361 ("AB 361") teleconferencing provisions; (2) amends existing teleconference requirements set forth in Government Code section 54953 to extend the previous 30-day findings a legislative body (as described below) to a finding every 45 days; (3) eliminates references to "social distancing" in Government Code section 54953; and (4) effective January 1, 2026, eliminates previously enacted teleconferencing alternatives per Assembly Bill 2449 ("AB 2449").

Current Brown Act Teleconferencing Rules

Traditionally, if a member of a legislative body would like to participate via teleconferencing, the Brown Act generally requires the following: (1) posting agendas at all teleconference locations; (2) identifying each teleconference location in the notice and agenda of the meeting; (3) making each teleconference location accessible to the public; and (4) during the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory of the local agency (collectively, "Traditional Teleconference Rules").

In response to the COVID-19 pandemic, the Legislature enacted alternative and expanded teleconferencing opportunities through AB 361 and AB 2449.

Pursuant to AB 361, members of legislative bodies are authorized to utilize teleconferencing for public meetings during a proclaimed state of emergency and if any of the following circumstances exist: (1) state or local officials have imposed or recommended measures to promote social distancing; (2) the legislative body is meeting for the purpose of determining whether, as a result of emergency, meeting in person would present imminent risks to the health or safety of attendees; or (3) the legislative body has previously made such determination.

AB 361 required that a legislative body verify every 30 days that alternative teleconferencing procedures during a declared state of emergency, as described above, are still necessary. In this verification process, the legislative body must have made findings no later than 30 days after the first teleconference and every 30 days thereafter that: (1) the legislative body has reconsidered the circumstances of the state of emergency, and (2) the state of emergency continues to directly impact the ability of the members to meet safely in person. Based on these findings, the legislative body could either continue or cease meeting under the method of alternative teleconference rules.

AB 557: Zooming In on the Brown Act *(continued)*

In addition to the Traditional Teleconference Rules and AB 361, AB 2449 authorizes a member of a legislative body to participate in a public meeting remotely if "emergency circumstances" or "just cause" exists.

Changes Made to Brown Act Teleconferencing Rules by AB 557

Traditional Teleconferencing Rules remain unaffected by the enactment of AB 557. However, effective January 1, 2024, AB 557 eliminates the sunset date of AB 361 and removes any references to social distancing contained in Government Code section 54953. Thus, teleconferencing rules per AB 361 may be utilized, without a sunset date, by members of a legislative body when the Governor has proclaimed a state of emergency in a local agency's jurisdictional boundaries or statewide when specified circumstances exist.

AB 557 also extends the period of time that the legislative body can verify that the alternative procedures from the Traditional Teleconference Rules during a declared state of emergency is still necessary. The legislative body must make findings no later than 45 days (as opposed to 30 days) after the first teleconference and every 45 days thereafter that: (1) the legislative body has reconsidered the circumstances of the state of emergency, and (2) the state of emergency continues to directly impact the ability of the members to meet safely in person. AB 557 eliminated the reference to social distancing.

Beginning January 1, 2026, AB 557 also eliminates the ability of a member of a legislative body to teleconference into public meetings due to "emergency circumstances" or "just cause" pursuant to AB 2449.

We strongly encourage those who have further questions about the new changes brought by AB 557 to reach out and confer with legal counsel.

https://www.aalrr.com/newsroom-alerts-4001

Chapter 585 – Assembly Bill No. 1594 (Garcia) — Medium – and heavy-duty zero-emission vehicles: public agency utilities.

Executive Order No. N-79-20 establishes the goal of transitioning medium- and heavy-duty vehicles in California to zero-emission vehicles by 2045 for all operations where feasible and by 2035 for drayage trucks, and requires the State Air Resources Board to develop and propose medium- and heavy-duty vehicle regulations to meet that goal.

Existing law establishes the Air Quality Improvement Program that is administered by the board for purposes of funding projects related to, among other things, the reduction of criteria air pollutants and improvement of air quality, and establishes the Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program within the Air Quality Improvement Program to make financing tools and nonfinancial supports available to operators of medium- and heavy-duty vehicle fleets to enable those operators to transition their fleets to zero-emission vehicles.

This legislation requires any State regulation that seeks to require, or otherwise compel, the procurement of medium- and heavy-duty zero-emission vehicles to authorize public agency utilities to purchase replacements for traditional utility-specialized vehicles that are at the end of life when needed to maintain reliable service and respond to major foreseeable events, including severe weather, wildfires, natural disasters, and physical attacks, as specified. The legislation defines a public agency utility to include a local publicly owned electric utility, a community water system, a water district, and a wastewater treatment provider, as specified.

An act to add the heading of Division 12.5 (commencing with Section 28500) to, and to add Chapter 1 (commencing with Section 28500) to Division 12.5 of, the Vehicle Code, relating to vehicles.

Chapter 586 – Assembly Bill No. 1637 (Irwin) — Local government: internet websites and email addresses.

(1) The California Constitution authorizes cities and counties to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws and further authorizes cities organized under a charter to make and enforce all ordinances and regulations in respect to municipal affairs, which supersede inconsistent general laws.

The California Public Records Act requires a local agency to make public records available for inspection and allows a local agency to comply by posting the record on its internet website and directing a member of the public to the internet website, as specified.

This legislation, no later than January 1, 2029, requires a local agency, as defined, that maintains an internet website for use by the public to ensure that the internet website utilizes a ".gov" top-level domain or a ".ca.gov" second-level domain and requires a local agency that maintains an internet website that is noncompliant with that requirement to redirect that internet

website to a domain name that does utilize a ".gov" or ".ca.gov" domain. This legislation, no later than January 1, 2029, also requires a local agency that maintains public email addresses to ensure that each email address provided to its employees utilizes a ".gov" domain name or a ".ca.gov" domain name. By adding to the duties of local officials, the legislation imposes a state-mandated local program.

(2) The legislation includes findings that changes proposed by this legislation address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(3) 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 legislation provides that, if the Commission on State Mandates determines that the legislation contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

An act to add Section 50034 to the Government Code, relating to local government.

Chapter 675 – Assembly Bill No. 1216 (Muratsuchi) — Wastewater treatment plants: monitoring of air pollutants.

Existing law generally designates air pollution control and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law authorizes the State Air Resources Board or the air district to adopt rules and regulations to require the owner or the operator of an air pollution emission source to take any action that the state board or the air district determines to be reasonable for the determination of the amount of air pollution emissions from that source. Existing law requires the air pollution control officer to inspect, as the officer determines necessary, the monitoring devices installed in every stationary source of air contaminants located within a jurisdiction that is required to have those devices to ensure that the devices are functioning properly. Existing law authorizes the district to require reasonable fees to be paid by the operator of that source to cover the expense of the inspection and other costs related thereto. A person who violates these requirements, or any rule, regulation, permit, or order of the state board or of a district adopted pursuant to these requirements is guilty of a misdemeanor and subject to a specified fine or imprisonment, or both a fine and imprisonment, as provided.

This legislation requires, on or before January 1, 2027, the owner or operator of a wastewater treatment facility that is located within 1,500 feet of a residential area and has an original design capacity of 425,000,000 gallons or more per day to develop, install, operate, and maintain a wastewater treatment-related fence-line monitoring system approved by the appropriate air quality management district. The legislation requires the wastewater treatment-related fence-line monitoring system to include equipment capable of measuring pollutants of concern, as provided, emitted into the atmosphere that the appropriate air quality management district deems

appropriate for monitoring. The legislation provides that it does not alter the responsibility of an owner or operator of a wastewater treatment facility to not exceed limits for nitrogen oxides and volatile organic compounds emitted into the atmosphere established in existing air quality regulations, as provided, and requires source testing for these pollutants to be conducted pursuant to a protocol approved by the appropriate air quality management district.

This legislation requires the owner or operator of a wastewater treatment facility to collect real-time data from the wastewater treatment-related fence-line monitoring system, to maintain records of that data for at least 3 years, and to transmit that data to the appropriate air quality management district. The legislation requires the air quality management district to maintain records of data from a wastewater treatment-related fence-line monitoring system for at least 3 years. In addition, the legislation requires, to the extent feasible, the data generated by these systems to be provided to the public in a publicly accessible format that provides a real-time data display.

This legislation requires the owner or operator of a wastewater treatment facility to be responsible for specified costs related to the wastewater treatment-related fence-line monitoring system, including all costs incurred by the air quality management district related to the wastewater treatment-related fence-line monitoring system and source testing at the wastewater treatment facility, and the costs associated with providing the required data to the air quality management district and the public.

By adding to the duties of air districts and by expanding the scope of crimes, this legislation imposes a state-mandated local program.

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 legislation provides that no reimbursement is required by this act for specified reasons.

An act to add Section 42705.7 to the Health and Safety Code, relating to air pollution.

Chapter 772 – Senate Bill No. 34 (Umberg) — Surplus land disposal: violations: County of Orange.

Existing law prescribes requirements for the disposal of land determined to be surplus land by a local agency. Those requirements include a requirement that a local agency, prior to disposing of a property or participating in negotiations to dispose of that property with a prospective transferee, send a written notice of availability of the property to specified entities, depending on the property's intended use, and send specified information in regard to the disposal of the parcel of surplus land to the Department of Housing and Community Development. Existing law, among other enforcement provisions, makes a local agency that disposes of land in violation of these disposal provisions, after receiving notification of violation from the department, liable for a penalty of 30% of the final sale price of the land sold in violation for a first violation and 50% for

any subsequent violation. Under existing law, except as specified, a local agency has 60 days to cure or correct an alleged violation before an enforcement action may be brought. Existing law provides for the deposit and use of penalty revenues for housing, as prescribed.

This legislation, until January 1, 2030, requires the County of Orange, or any city located within the County of Orange, if notified by the department that its planned disposal of surplus land is in violation of existing law, to cure or correct the alleged violation within 60 days, as prescribed. The legislation prohibits a County of Orange jurisdiction that has not cured or corrected any alleged violation from disposing of the parcel until the department determines that it has complied with existing law or deems the alleged violation not to be a violation. The legislation authorizes a local agency that receives that notice to provide to the Department of Housing and Community Development a statement describing the actions taken to cure or correct the alleged violation within 60 days of receipt of the notice, and requires the department, if it receives that statement, to make specified determinations and notify the local agency of those determinations within 30 days of receipt of the statement.

This legislation makes legislative findings and declarations as to the necessity of a special statute for the County of Orange.

By imposing new duties on local agencies, the legislation imposes a state-mandated local program.

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 legislation provides that, if the Commission on State Mandates determines that the legislation contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

An act to add and repeal Section 54230.8 of the Government Code, relating to surplus land.

Chapter 774 – Senate Bill No. 229 (Umberg) — Surplus land: disposal of property: violations: public meeting.

Existing law prescribes requirements for the disposal of land determined to be surplus land by a local agency. Those requirements include a requirement that a local agency, before disposing of a property or participating in negotiations to dispose of that property with a prospective transferee, send a written notice of availability of the property to specified entities, depending on the property's intended use, and send specified information in regard to the disposal of the parcel of surplus land to the Department of Housing and Community Development. Existing law, among other enforcement provisions, makes a local agency that disposes of land in violation of these disposal provisions, after receiving notification of violation from the department, liable for a penalty of 30% of the final sale price of the land sold in violation for a first violation and 50% for

any subsequent violation. Under existing law, except as specified, a local agency has 60 days to cure or correct an alleged violation before an enforcement action may be brought.

This legislation requires a local agency that is disposing of surplus land and has received a notification of violation from the department to hold an open and public meeting to review and consider the substance of the notice of violation. The legislation requires the local agency's governing body to provide prescribed notice no later than the time required by specified provisions. The legislation prohibits the local agency's governing body from taking final action to ratify or approve the proposed disposal of surplus land until a public meeting is held as required. The legislation exempts from its provisions a local agency that ceases to dispose of surplus land after receiving the notice of violation. By imposing new duties on local agencies, the legislation imposes a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This legislation makes legislative findings to that effect.

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 legislation provides that no reimbursement is required by this act for a specified reason.

An act to add Section 54230.7 to the Government Code, relating to surplus land.

Chapter 786 – Senate Bill No. 747 (Caballero) — Land use: surplus land.

Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines terms for these purposes. Existing law defines "surplus land" to generally mean land owned in fee simple by a local agency for which the local agency's governing body takes formal action in a public meeting declaring that the land is surplus and not necessary for the agency's use. Existing law defines "agency's use" to include land that is being used, is planned to be used pursuant to a written plan adopted by the local agency's governing board, or is disposed of to support agency work or operations. Existing law excludes from "agency's use" commercial or industrial uses or activities, or property disposed of for the sole purpose of investment or generation of revenue, unless the local agency is a district, except as specified, and the agency's governing body takes specified actions in a public meeting. Existing law excludes from these requirements the disposal of exempt surplus land by an agency of the state or any local government. Existing law requires a local agency to declare land as either surplus land or exempt surplus land, as supported by written findings, before a local agency may take any action to dispose

of it. Under existing law, exempt surplus land includes, among other types of land, property that is used by a district for an "agency's use" as expressly authorized, land for specified developments, including a mixed-use development, if put out to open, competitive bid by a local agency, as specified, and surplus land that is subject to specified valid legal restrictions.

This legislation defines the term "dispose" for these purposes to mean the sale of the surplus property or a lease of any surplus property entered into on or after January 1, 2024, for a term longer than 15 years, including renewal options, as specified. The legislation provides that "dispose" does not include entering a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease. The legislation also redefines the term "agency's use" to include property owned by a port that is used to support logistics uses, sites for broadband equipment or wireless facilities, and waste disposal sites.

This legislation revises and recasts certain provisions related to exempt surplus land, including exempting surplus land that is less than one-half acre and not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate- income housing purposes, and provisions related to mixed-use developments, among others. The legislation adds various new categories of exempt surplus land, including (1) specified land that is owned by a California public-use airport on which residential uses are prohibited, (2) surplus land owned by a local agency whose primary mission or purpose is to supply the public with a transportation system that is developed for commercial, or industrial uses or activities, for the sole purpose of investment if certain conditions are met, and (3) land transferred to a community land trust, as specified. The legislation also specifies that certain legal restrictions are valid legal restrictions and requires that for surplus land that is subject to valid legal restrictions to be considered exempt surplus land, a declaration of exemption must be supported by documentary evidence, as provided.

This legislation specifies that the law governing surplus land does not require a local agency to dispose of land that is determined to be surplus.

Existing law requires a local agency disposing of surplus land to send a written notice of availability of the property to specified local agencies and housing sponsors before disposing of the property or participating in negotiations.

This legislation specifies additional actions that are not considered "participating in negotiations" for purposes of the above-described notice of availability requirement, including issuing a request for proposals or negotiating a lease for purposes of complying with specified provisions of law.

Existing law requires the Department of Housing and Community Development to maintain on its internet website a list of all notices of availability throughout the state.

This legislation requires the department to also maintain on its internet website a list of all entities, including housing sponsors, that have notified the department of their interest in surplus land for the purpose of developing low- and moderate-income housing.

Existing law requires an entity proposing to use surplus land for developing low- and moderate-income housing shall agree to make available not less than 25 percent of the total number of units developed on the parcels at affordable housing cost for a period of at least 55 years.

This legislation instead requires the entity to agree to make available not less than 25 percent of the total number of units developed on the parcels at affordable housing cost for a minimum of 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands.

Under existing law, a local agency that disposes of surplus land after receiving a notification from the Department of Housing and Community Development that the agency is in violation of the law governing surplus land is liable for 30% of the final sale price of the land. Existing law authorizes certain entities and interested persons to bring an action to enforce these provisions.

This legislation instead makes a local agency that is in violation of these provisions liable for 30% of the applicable disposition value, which the legislation defines. This legislation prohibits the penalties for violating these provisions from applying to nonsubstantive violations that do not impact the availability or construction of housing affordable to lower income households or the ultimate disposition of the land, as specified.

Existing law further requires the department to review, adopt, amend, or repeal guidelines to establish uniform standards to implement certain provisions and exempts those guidelines from the Administrative Procedure Act.

This legislation removes that exemption from the Administrative Procedure Act.

By imposing new duties on local agencies, the legislation imposes a state-mandated local program.

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 legislation provides that, if the Commission on State Mandates determines that the legislation contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This legislation incorporates additional changes to Section 54221 of the Government Code proposed by Assembly Bill 480 to be operative only if this legislation and Assembly Bill 480 are enacted and this legislation is enacted last.

This legislation makes its operation contingent on the enactment of Assembly Bill 480 of the 2023-24 Regular Session.

An act to amend Sections 54222, 54222.5, 54223, 54224, 54225, 54226, 54227, 54230, and 54230.5 of, and to amend and repeal Section 54221 of, the Government Code, relating to local government.

Chapter 788 – Assembly Bill No. 480 (Ting) — Surplus land.

Existing law prescribes requirements for the disposal of surplus land by a local agency, as defined, and requires, except as provided, a local agency disposing of surplus land to comply with certain notice requirements before disposing of the land or participating in negotiations to dispose of the land with a prospective transferee, particularly that the local agency send a notice of availability to specified entities that have notified the Department of Housing and Community Development of their interest in surplus land, as specified. Under existing law, if the local agency receives a notice of interest, the local agency is required to engage in good faith negotiations with the entity desiring to purchase or lease the surplus land.

This legislation defines the term "dispose" to mean the sale of the surplus property or a lease of any surplus property entered into on or after January 1, 2024, for a term longer than 15 years, including renewal options, as specified. The legislation provides that "dispose" does not include entering a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease.

Existing law requires a local agency to take formal action in a regular public meeting to declare that land is surplus and is not necessary for the agency's use and to declare land as either "surplus land" or "exempt surplus land," as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures.

This legislation exempts a local agency, in specified instances, from making a declaration at a public meeting for land that is "exempt surplus land" if the local agency identifies the land in a notice that is published and available for public comment at least 30 days before the exemption takes effect.

Existing law defines "exempt surplus land," for which a local agency is not required to follow the requirements for disposal of surplus land, except as provided, as, among other things, surplus land that is put out to open, competitive bid by a local agency for specified housing and mixed-use development purposes, and surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, as specified.

This legislation recasts the definition of "exempt surplus land" with respect to surplus land for specified housing purposes, to remove the requirement that it be put out to open, competitive bid. The legislation also includes within the definition of "exempt surplus land" surplus land totaling 10 or more acres, consisting of a single parcel, or of 2 or more adjacent or nonadjacent parcels totaling 10 or more acres, combined for disposition to one or more buyers pursuant to a plan or ordinance adopted by the legislative body of the local agency, or a state statute, as specified. The legislation requires that land be subject to an open, competitive bid process, as specified, and that the development satisfy certain requirements. The legislation makes a violation of these

provisions subject to specified penalties. The legislation also requires that a local agency that disposes of land pursuant to those provisions do so through a disposition and development agreement containing specified provisions. The legislation also requires, with respect to surplus land that is subject to valid legal restrictions, that the legal restrictions described above be supported by documentary evidence and written findings, as specified. The legislation requires that certain surplus land be transferred with a covenant or restriction recorded against the land at the time of sale, as specified. By narrowing the circumstances under which certain surplus land may be defined as "exempt surplus land" and, therefore, expanding the duties of local officials, the legislation imposes a state-mandated local program.

Existing law defines "exempt surplus land" to include surplus land that a local agency is exchanging for another property necessary for the agency's use.

This legislation includes easements necessary for the agency's use for purposes of that provision.

Existing law specifies that, for purposes of these provisions, the term "exempt surplus land," includes, among other things, surplus land that is put out to open, competitive bid by a local agency, as specified, for purposes of a mixed-use development that is more than one acre in area, that includes not less than 300 housing units, and that restricts at least 25% of the residential units to lower income households with an affordable sales price or an affordable rent for a minimum of 55 years for rental housing and 45 years for ownership housing.

This legislation modifies these provisions to require that the mixed-use development include not less than 300 residential units, modifies the affordability restriction to 50 years for rental or ownership housing located on tribal trust lands, and requires the restrictions to be recorded, as specified.

Existing law also defines exempt surplus land as, among other things, land that was transferred by the state to a local agency, as specified, that includes residential units that are restricted to persons and families of low or moderate income with an affordable sales price or rent, at least 80% of which shall be restricted to persons and families of lower income.

This legislation expands the definition of exempt surplus land to include land that is owned by a California public-use airport on which residential use is prohibited pursuant to specified federal law. The legislation expands in the definition of exempt surplus land to also include certain mixed-use developments that meet specified conditions, including that at least 25% of the residential units are restricted to lower income households and at least 50% of the square footage of the new construction is designated for residential use, and surplus land owned by a local agency whose primary mission or purpose is to supply the public with a transportation system that is developed for commercial, or industrial uses or activities, for the sole purpose of investment if certain conditions are met. The legislation also modifies exemptions related to land transferred after activation of a parking authority and land that is a former military base to include an affordability restriction of 50 years for rental or ownership housing located on tribal trust lands.

Existing law requires any local agency disposing of surplus land to send a written notice of availability of the property to specified entities. Existing law requires the Department of Housing and Community Development to maintain on its internet website a list of all notices of availability throughout the state.

This legislation requires the department to also maintain on its internet website a list of all entities, including housing sponsors, that have notified the department of their interest in surplus land for the purpose of developing low- and moderate-income housing. This legislation also specifies that certain actions are not considered "participating in negotiations" for purposes of the above-described notice of availability requirement, including issuing a request for proposals or negotiating a lease for purposes of complying with specified provisions of law. The legislation makes other nonsubstantive changes to provisions that describe the entities to which notices of availability for developing low- and moderate-income housing, for open-space purposes, and for school facilities construction are required to be sent.

Existing law requires an entity proposing to use the surplus land for developing low- and moderate-income housing to agree to make available not less than 25% of the total number of units developed on the parcels at affordable housing cost for a period of at least 55 years.

This legislation instead requires the entity to require requirement to agree to make available not less than 25% of the total number of units developed on the parcels at affordable housing cost for a minimum of 55 years for rental housing, land use for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands.

Existing law specifies that after the disposing agency has received a notice of interest from the entity desiring to purchase or lease the land, if price or terms cannot be agreed upon after a good faith negotiation period, the land may be disposed of, as specified.

This legislation recasts that provision to state that after the specified good faith negotiation, the local agency may dispose of the surplus land, as specified.

Existing law proclaims that nothing in these provisions relating to the disposition of surplus property shall preclude a local agency, housing authority, or redevelopment agency that purchases land from a disposing agency from reconveying the land to a nonprofit or for-profit housing developer for development of low- and moderate-income housing.

This legislation modifies that provision to remove reference to housing authorities and redevelopment agencies and make other nonsubstantive changes.

Existing law specifies that any public agency disposing of surplus land to a specified entity that intends to use the land for park or recreation purposes, for open-space purposes, for school purposes, or for low- and moderate-income housing purposes may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed for the land.

This legislation modifies those provisions to refer, instead, to a local agency disposing of surplus land.

Existing law authorizes a local agency to negotiate concurrently with all entities that provide notice of interest for the purpose of developing affordable housing that meets specified requirements.

This legislation modifies that provision to reference low- and moderate-income housing that meets specified requirements. The legislation makes other nonsubstantive changes to this provision.

Existing law makes a local agency that disposes of land in violation of these provisions after receiving notice from the Department of Housing and Community Development liable for a penalty of 30% of the final sale price of the surplus land sold for a first violation and 50% for any subsequent violation.

This legislation, instead, makes a local agency that disposes of surplus land in violation of these provisions, except as specified, after receiving a notification from the Department of Housing and Community Development, as specified, that the local agency is in violation of these provisions liable for a penalty of 30% of the applicable disposition value, which the legislation defines. This legislation prohibits the penalties for violating these provisions from applying to nonsubstantive violations that do not impact the availability or construction of housing affordable to lower income households or the ultimate disposition of the land, as specified. The legislation makes nonsubstantive changes to, and corrects an erroneous cross-reference in, those provisions.

Existing law provides that certain dispositions of real property by local agencies are subject to surplus land disposal procedures as they existed on December 31, 2019, if those dispositions are pursuant to specified legal agreements and the disposition is completed by December 31, 2022, or by December 31, 2024, if the property is located in a charter city with a population of over 2,000,000 persons and a local agency has an option agreement duly authorized by the governing body to purchase the property from a former redevelopment agency.

This legislation instead subjects dispositions of real property by local agencies to surplus land disposal procedures as they existed on December 31, 2019, if those dispositions are pursuant to specified legal agreements and the dispositions are completed by December 31, 2027. The legislation authorizes a local agency that terminated an exclusive negotiating agreement or legally binding agreement to dispose of property, as specified, to elect whether to ask the requisite party to consider reviving the terminated agreement, and makes the revived agreement subject to these provisions, as applicable.

This legislation specifies that the law governing surplus land does not require a local agency to dispose of land that is determined to be surplus.

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 legislation provides that, if the Commission on State Mandates determines that the legislation contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This legislation makes its operation contingent on the enactment of SB 747 of the 2023–24 Regular Session.

This legislation incorporates additional changes to Section 54221 of the Government Code proposed by SB 747 to be operative only if this legislation and SB 747 are enacted and this legislation is enacted last.

An act to amend Sections 54222, 54222.5, 54223, 54224, 54225, 54226, 54227, 54230, 54230.5, and 54234 of, and to amend and repeal Section 54221 of, the Government Code, relating to local government.

Chapter 860 – Senate Bill No. 69 (Cortese) — California Environmental Quality Act: local agencies: filing of notices of determination or exemption.

The California Environmental Quality Act (CEQA) requires, among other things, a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.

CEQA requires a local agency that approves or determines to carry out a project subject to CEQA to file a notice of determination with the county clerk of each county in which the project will be located, as provided. CEQA authorizes a local agency that determines that a project is not subject to CEQA to file a notice of exemption with the county clerk of each county in which the project will be located, as provided. CEQA requires the county clerk to make the notice available for public inspection and post the notice within 24 hours of receipt in the office or on the internet website of the county clerk, as specified.

CEQA requires an action or proceeding challenging an act or decision of a public agency, including a local agency, on the grounds of noncompliance with CEQA to be commenced within certain time periods, as specified.

This legislation requires a local agency to file a notice of determination with the State Clearinghouse in the Office of Planning and Research in addition to the county clerk of each county in which the project will be located. The legislation authorizes a local agency to file a notice of exemption with the State Clearinghouse in the Office of Planning and Research in addition to the county clerk of each county in which the project will be located. The legislation requires the notice, including any subsequent or amended notice, to be posted both in the office and on the internet website of the county clerk and by the Office of Planning and Research on the State Clearinghouse internet website within 24 hours of receipt. The legislation specifies that the posting of the notice by the Office of Planning and Research will not affect the applicable time periods to challenge an

act or decision of a local agency, as described above. By imposing duties on local agencies, the legislation creates a state-mandated local program.

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 legislation provides that no reimbursement is required by this act for a specified reason.

An act to amend Section 21152 of the Public Resources Code, relating to environmental quality.

Chapter 51 – Senate Bill No. 122 — Public resources trailer bill.

(15) Existing law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream, or lake, without first notifying the Department of Fish and Wildlife of that activity, and entering into a lake or streambed alteration agreement if required by the department to protect fish and wildlife resources. Existing law exempts certain routine maintenance and operation activities from those requirements after the initial notification and agreement and exempts certain emergency activities from those notification and agreement requirements.

This legislation exempts specified activities regarding the diversion of floodflows for groundwater recharge from the above-described provisions.

Existing law states that the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law provides for the forfeiture of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years. Existing law declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

This legislation provides that the diversion of floodflows for groundwater recharge do not require an appropriative water right if specified conditions regarding the diversion are met, including, among other things, if a local or regional agency that has adopted a local plan of flood control or has considered flood risk as part of its most recently adopted general plan has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice, that flows downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures. The legislation provides that these provisions apply only to diversions commenced before January 1, 2029. The legislation provides that the state is not liable for flood damages related to actions authorized pursuant to these provisions. The legislation requires the State Water Resources Control Board to post specified information related to the diversion of floodflows for groundwater recharge on its internet website, as specified.

Existing law authorizes the state board to issue a cease and desist order against a person who is violating, or threatening to violate, certain regulations or requirements relating to water use. Under existing law, a person or entity in violation of a term or condition of a permit, license, certificate, or registration issued by, or a regulation or order adopted by, the state board may be held liable for an amount not to exceed $500 for each day that the violation occurs.

This legislation authorizes the state board to issue a cease and desist order against a person who is violating, or threatening to violate, any regulation adopted by the state board. The legislation also authorizes the state board to issue a cease and desist order against a person who violates a condition or reporting requirement for the diversion of floodwaters for groundwater recharge, and makes the person liable in an amount not to exceed the sum of $500 for each day that the violation occurs.

Existing law, the California Emergency Services Act, sets forth the emergency powers of the Governor under its provisions and empowers the Governor to proclaim a state of emergency for certain conditions, including drought.

Existing law, until January 1, 2024, among other things, authorizes specified state agencies, subject to an appropriation for these purposes, to make grants and direct expenditures for interim or immediate relief in response to conditions arising from a drought scenario to, among other things, address immediate impacts on human health and safety, including providing or improving availability of food, water, or shelter. Existing law defines "interim or immediate relief" for purposes of these provisions to include specified types of relief and provides that eligible costs for interim or immediate relief include technical assistance, site acquisitions, and costs directly related to the provision of the project.

This legislation extends the operation of this drought relief program indefinitely. The legislation adds diversions of floodflows for groundwater recharge, as made lawful by this legislation without appropriative water rights, and water use reduction and efficiency equipment to what is considered interim or immediate relief for purposes of these provisions. The legislation exempts the posting and dissemination of information related to drought emergency activities for purposes of these provisions from technology and internet website accessibility requirements, until posting an accessible version is practicable.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This legislation exempts from CEQA the actions of any public agency that contracts with the United States Bureau of Reclamation, or is an entitlement holder under specified law for Colorado River water supplies, that are approved before December 31, 2026, that the Secretary of the Natural Resources Agency concurs in writing are reasonably necessary to implement Colorado River water conservation agreements with the United States Bureau of Reclamation, as well as those water conservation agreements themselves. Because the legislation requires a lead agency to determine whether certain projects qualify for the new exemption, the legislation imposes a state-mandated local program.

An act to amend Sections 1831, and 1846, of, to add Sections 1242.1, 1242.2, and 1242.3 to, the Water Code.

Chapter 542 – Assembly Bill No. 755 (Papan) — Water: public entity: water usage demand analysis.

Existing law authorizes a public entity that supplies water at retail or wholesale within its service area to adopt, in accordance with specified procedures, and enforce a water conservation program.

This legislation requires a public entity, as defined, to conduct a water usage demand analysis, as defined, prior to completing, or as part of, a cost-of-service analysis conducted to set fees and charges for water service that are consistent with applicable law. The legislation requires a public entity to identify, within the water usage demand analysis, the costs of water service for the highest users, as defined, incurred by the public entity, and the average annual volume of water delivered to high water users. The legislation also requires the costs of water service for the highest users and the average annual volume of water delivered to high water users to be made publicly available by posting the information in the public entity's cost-of-service analysis. By requiring a higher level of service of public entities, the legislation imposes a state-mandated local program.

The legislation includes findings that changes proposed by this legislation address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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 legislation provides that, if the Commission on State Mandates determines that the legislation contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

An act to add Chapter 3.8 (commencing with Section 390) to Division 1 of the Water Code, relating to water.

Chapter 665 – Assembly Bill No. 779 (Wilson) — Groundwater; adjudication.

(1) Existing law establishes various methods and procedures for a comprehensive adjudication of groundwater rights in civil court.

This legislation requires the court, in an adjudication action for a basin required to have a groundwater sustainability plan, to appoint one party to forward all case management orders, judgments, and interlocutory orders to the groundwater sustainability agency within 10 business days of issuance. The legislation requires the court to allocate payment of the costs incurred by the party appointed to forward all case management orders, judgments, and interlocutory orders to the groundwater sustainability agency among the parties in an amount and a manner that the court deems equitable. The legislation requires the groundwater sustainability agency to post the documents on its internet website in the interest of transparency and accessibility within 20 business days of receipt from a party, as specified. The legislation authorizes the court to refer the matter to the State Water Resources Control Board for investigation and report in order to assist the court in making findings pursuant to these provisions, and authorizes a party to request that the court refer the matter to the board for these purposes, as specified. The legislation requires the court to consider the water use of and accessibility of water for small farmers and disadvantaged communities, as those terms are defined, before entering a judgment.

(2) Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans, except as specified. Existing law authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin and imposes specified duties upon that agency or combination of agencies, as provided. Existing law requires, among other duties, a groundwater sustainability agency to evaluate its groundwater sustainability plan periodically. Existing law requires a groundwater sustainability agency, on the April 1 following the adoption of a groundwater sustainability plan and annually thereafter, to report specified information about the groundwater basin to the department.

This legislation requires a groundwater sustainability agency to submit copies of those reports to the court during the duration of an adjudication proceeding. The legislation requires all monitoring and reporting required under a groundwater sustainability plan or an interim plan for a basin subject to an adjudication to continue throughout the duration of the adjudication proceeding.

The legislation requires a groundwater sustainability agency, upon receiving notice that an adjudication has commenced in its basin, to host a public meeting to explain the adjudication process and the status of the adjudication to water users within the basin and the public. The legislation requires a recording or summary of the meeting to be posted to a public internet website hosted by either the groundwater sustainability agency or the watermaster of the basin. The legislation authorizes a groundwater sustainability agency to invite the state board or the department to send a representative to the meeting in order to help explain the adjudication process. The legislation applies these provisions only to basins in which a comprehensive adjudication has not been commenced by January 1, 2024.

An act to amend Sections 840 and 850 of, and to add Section 831.5 to, the Code of Civil Procedure, and to amend Section 10737.4 of, and to add Sections 10737.3 and 10737.9 to, the Water Code, relating to groundwater.

Chapter 849 – Assembly Bill No. 1572 (Friedman) — Potable water: nonfunctional turf.

(1) Existing law establishes various state water policies, including the policy that the use of water for domestic purposes is the highest use of water.

This legislation makes legislative findings and declarations concerning water use, including that the use of potable water to irrigate nonfunctional turf is wasteful and incompatible with state policy relating to climate change, water conservation, and reduced reliance on the Sacramento-San Joaquin Delta ecosystem. The legislation directs all appropriate state agencies to encourage and support the elimination of irrigation of nonfunctional turf with potable water.

(2) Existing law, the Integrated Regional Water Management Planning Act, authorizes a regional water management group to prepare and adopt an integrated regional water management plan in accordance with specified requirements, including, among other things, the identification and consideration of the water-related needs of disadvantaged communities in the area within the boundaries of the plan.

This legislation additionally requires an integrated regional water management plan to address the identification and consideration of the water-related needs of owners and occupants of affordable housing, including the removal and replacement of nonfunctional turf.

(3) Existing law provides various findings and declarations of the Legislature related to sustainable water use and demand reduction. Existing law imposes various water use reduction requirements that apply to urban retail water suppliers, including a requirement that the state achieve a 20% reduction in urban per capita water use by December 31, 2020.

This legislation prohibits the use of potable water, as defined, for the irrigation of nonfunctional turf located on commercial, industrial, and institutional properties, other than a cemetery, and on properties of homeowners' associations, common interest developments, and community service organizations or similar entities, as specified. The legislation authorizes the State Water Resources Control Board to create a form for compliance certification and requires owners of covered properties to certify their compliance, as specified. The legislation authorizes a public water system, city, county, or city and county to enforce these provisions, as specified. The legislation requires the Governor's Office of Business and Economic Development to support small and minority-owned businesses that provide services that advance compliance with these provisions.

An act to amend Sections 10540, 10608.12, and 10608.22 of, to add Section 110 to, and to add Chapter 2.5 (commencing with Section 10608.14) to Part 2.55 of Division 6 of, the Water Code, relating to water.

Chapter 855 – Senate Bill No. 3 (Dodd) — Discontinuation of residential water service: covered water system.

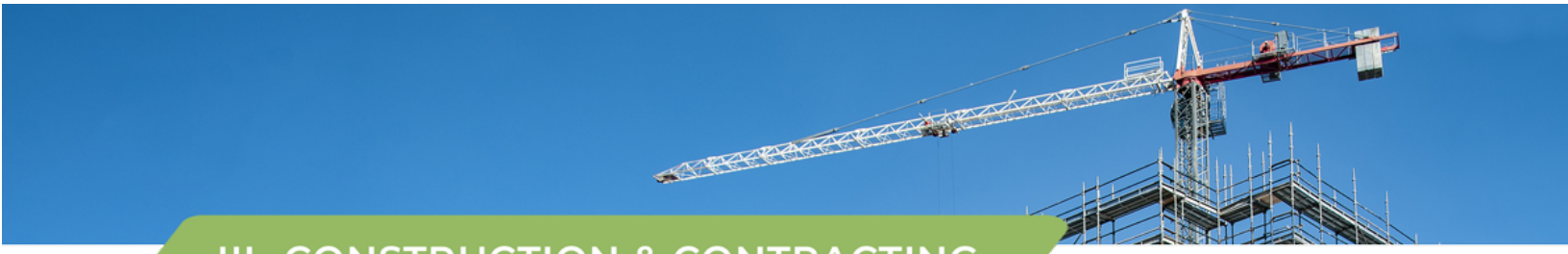
(1) Existing law establishes the Safe Drinking Water Account to be available to the State Water Resources Control Board, upon appropriation by the Legislature, for the purpose of providing funds necessary to administer the California Safe Drinking Water Act.

This legislation expands the use of available funds in the account to be used by the state board, upon appropriation by the Legislature, to include the administration of the Water Shutoff Protection Act. The legislation, subject to the availability of funding, requires the state board to make funds available for providing training statewide to community water systems with between 15 and 200 service connections to assist in compliance with the Water Shutoff Protection Act.

(2) Existing law, the Water Shutoff Protection Act, prohibits an urban and community water system, defined as a public water system that supplies water to more than 200 service connections, from discontinuing residential service for nonpayment, as specified, and requires specified procedures before it can discontinue residential service for nonpayment. Existing law defines a community water system as a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system. Existing law requires an urban and community water system to have a written policy on discontinuation of residential service for nonpayment available in English, other designated languages, and any other language spoken by at least 10% of the people residing in its service area.

This legislation expands the scope of the Water Shutoff Protection Act by requiring that it instead apply to a covered water system, defined to include specified water systems and suppliers, including a community water system. The legislation requires a community water system, that is not otherwise required to comply, to comply with the act's provisions on and after August 1, 2024. The legislation instead applies the above-described language requirements for the written policy of discontinuation of residential service for nonpayment to a covered water system that serves 200 or more service connections. The legislation requires a covered water system that serves fewer than 200 service connections to have a written policy on disconnection of residential service for nonpayment available in English, any language spoken by at least 10% of the people residing in its service area, and, upon request of a customer, other designated languages. The legislation authorizes, as part of the act, the Attorney General, at the request of the board or upon the Attorney General's own motion, to bring an action in state court to restore to any person in interest any money or property, real or personal, that may have been acquired by any method, act, or practice prohibited by the act. The legislation makes related changes.

An act to amend Sections 116590, 116902, 116904, 116906, 116908, 116910, 116912, 116914, 116916, 116918, 116920, 116922, and 116926 of, the Health and Safety Code, relating to water.



III. CONSTRUCTION & CONTRACTING

Chapter 201 – Assembly Bill No. 400 (Rubio) — Local agency design-build projects: authorization.

Existing law authorizes a local agency, as defined, with approval of its governing body, to procure design-build contracts for public works projects in excess of $1,000,000, awarding the contract either to the lowest bid or the best value. "Local agency" is defined, in part, for this purpose to include specified local and regional agencies responsible for the construction of transit projects, including any joint powers authority formed to provide transit service. Existing law, among other requirements for the design-build procurement process, requires specified information submitted by a design-build entity to be certified under penalty of perjury. These provisions authorizing the use of the design-build procurement process are repealed on January 1, 2025.

This legislation deletes from the definition of "local agency" any joint powers authority formed to provide transit services, and instead expands that definition to include any joint powers authority responsible for the construction of transit projects, thereby authorizing additional joint powers authorities to use the above-described design-build procurement process. The legislation extends the repeal date to January 1, 2031. By expanding the design-build authorization to additional joint powers authorities and by extending the design-build authorization, the legislation expands the crime of perjury, thereby imposing a state-mandated local program.

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 legislation provides that no reimbursement is required by this act for a specified reason.

An act to amend Sections 22161 and 22169 of the Public Contract Code, relating to public contracts.

Chapter 263 – Assembly Bill No. 334 (Rubio) — Public contracts: conflicts of interest.

Existing law prohibits members of the Legislature and state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Existing law authorizes the Fair Political Practices Commission to commence an administrative or civil action against persons who violate this prohibition, as prescribed, and includes provisions for the collection of penalties after the time for judicial review of a commission order or decision has

lapsed, or if all means of judicial review of the order or decision have been exhausted. Existing law identifies certain remote interests in contracts that are not subject to this prohibition and other situations in which an official is not deemed to be financially interested in a contract. Existing law makes a willful violation of this prohibition a crime.

This legislation establishes that an independent contractor, who meets specified requirements, is not an officer for purposes of being subject to the prohibition on being financially interested in a contract. The legislation authorizes a public agency to enter into a contract with an independent contractor who is an officer for a later phase of the same project if the independent contractor did not engage in or advise on, as specified, the making of the subsequent contract.

This legislation establishes that a person who acts in good faith reliance on these provisions is not in violation of the above-described conflict-of-interest prohibitions and prohibits them from being subject to criminal, civil, or administrative enforcement under those prohibitions if the initial contract includes specified language and the independent contractor is not in breach of those terms. The legislation provides that it is a complete defense in any criminal, civil, or administrative proceeding if the person acts in good faith reliance on these provisions, and meets specified conditions, but fails to include the specified language in the initial contract.

An act to add Section 1097.6 to the Government Code, relating to contracts.

Please refer to the 'Alert' below for further information regarding the recent legislative update

Appendix B – AALRR Alert - *https://www.aalrr.com/newsroom-alerts-4002*

Assembly Bill 334 (2023): CA Legislature Eases Conflict of Interests Law for Public Works
(October, 17, 2023)

Government Code section 1090 ("Section 1090") prohibits public "officers" and "employees" from being financially interested in contracts "made" by such individuals in their official capacity. Over the years, however, California courts have broadly interpreted Section 1090. For example, a public "officer" or "employee" "makes" a contract if he/she plans a contract, engages in preliminary discussions regarding a contract, affects plans and specifications, or "had the opportunity to, and did, influence" the approval of a contract. More relevantly, the terms public "officer" and "employee" have been expanded to include independent contractors hired by public agencies such as construction contractors, architects, and more.

Case law has held that the term "employee" in Section 1090 "encompasses consultants hired by the local government," including corporate consultants.

Assembly Bill 334 (2023): CA Legislature Eases Conflict of Interests Law for Public Works *(continued)*

Other cases have similarly found consultants/independent contractors to be public "officers" when such consultants have "responsibilities for public contracting similar to those belonging to formal officers…." (*People v. Superior Court (Sahlolbei)* (2017) 3 Cal.5th 230, 237.)

Recently, the Governor signed Assembly Bill 334 (2023) ("AB 334") into law, which seeks to ease the foregoing rules for certain independent contractors. Effective January 1, 2024, AB 334 creates a new statute, Government Code section 1097.6, affecting consultants involved in one phase of a project but seeking to enter into a subsequent contract for a later phase of the same project. The statute provides:

- A contractor is <u>not</u> an "officer" under Section 1090 if the contractor <u>did not</u> prepare or assist the public entity with any portion of a request for proposals, request for qualifications, or any other subsequent or additional contract with the public entity.
- If a contractor <u>does</u> assist the public entity with contracting matters, the contractor may enter into a subsequent contract for a later phase of the same project, and there is no violation of Section 1090, only if:
    - The contractor participated in the planning, discussions, or drawing of plans or specifications only during an initial stage of a project;
    - The participation is limited to conceptual, preliminary, or initial plans or specifications; and
    - All bidders or proposers for the subsequent contract have access to the same information, including all conceptual, preliminary, or initial plans or specifications.

Significantly, the new law exempts independent contractors from criminal, civil, or administrative enforcement of Section 1090 if the relevant contracts contain certain language. The law may also exempt independent contractors from criminal, civil, or administrative enforcement if the contractor acts in good faith reliance on the above-stated rules, as is further described in the new law.

It is currently uncertain, but it appears that Government Code section 1097.6 may affect design entities as well as construction contractors involved in public works. To ensure compliance with the new law, public entities should work with legal counsel to discuss the appropriate language for applicable contracts and/or how this statute may affect construction delivery methods such as lease-leaseback and design-build.

https://www.aalrr.com/newsroom-alerts-4002

Chapter 500 – Senate Bill No. 706 (Caballero) — Public contracts: progressive design-build: local agencies.

Existing law authorizes the Director of General Services to use the progressive design-build procurement process for the construction of up to 3 capital outlay projects, as jointly determined by the Department of General Services and the Department of Finance, and prescribes that process. Existing law defines "progressive design-build" as a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection at the earliest feasible stage of the project.

Existing law, until January 1, 2029, authorizes local agencies, defined as any city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source, to use the progressive design-build process for up to 15 public works projects in excess of $5,000,000 for each project, similar to the progressive design-build process authorized for use by the Director of General Services.

Existing law requires a local agency that uses the progressive design-build process to submit, no later than January 1, 2028, to the appropriate policy and fiscal committees of the Legislature a report on the use of the progressive design-build process containing specified information, including a description of the projects awarded using the progressive design-build process. Existing law requires the design-build entity and its general partners or joint venture members to verify specified information under penalty of perjury.

This legislation, until January 1, 2030, provides additional authority for cities, counties, cities and counties, or special districts to use the progressive design-build process for up to 10 public works in excess of $5,000,000, not limited to water-related projects, excluding projects on state-owned or state-operated facilities. Legislation requires information to be provided under penalty of perjury and requires similar reports due no later than December 31, 2028.

By expanding the crime of perjury, the legislation imposes a state-mandated local program.

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 legislation provides that no reimbursement is required by this act for a specified reason.

An act to add and repeal Chapter 4.7 (commencing with Section 22185) of Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

Chapter 806 – Assembly Bill No. 587 (Rivas) — Public works: payroll records.

Existing law requires the Labor Commissioner to investigate allegations that a contractor or subcontractor violated the law regulating public works projects, including the payment of prevailing wages. Existing law requires each contractor and subcontractor on a public works project to keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. Existing law requires any copy of records made available for inspection as copies and furnished upon request to the public or any public agency to be marked or obliterated to prevent disclosure of an individual's name, address, and social security number but specifies that any copy of records made available to a Taft-Hartley trust fund for the purposes of allocating contributions to participants be marked or obliterated only to prevent disclosure of an individual's full social security number, as specified. Existing law makes any contractor, subcontractor, agent, or representative who neglects to comply with the requirements to keep accurate payroll records guilty of a misdemeanor.

This legislation requires any copy of records requested by, and made available for inspection by or furnished to, a multiemployer Taft-Hartley trust fund or joint labor-management committee be provided on forms provided by the Division of Labor Standards Enforcement or contain the same information as the forms provided by the division. The legislation specifies that copies of electronic certified payroll records do not satisfy payroll records requests made by Taft-Hartley trust funds and joint labor-management committees. To the extent that this legislation imposes additional duties on any contractor, subcontractor, agent, or representative, the legislation expands the scope of a crime and impose a state-mandated local program.

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 legislation provides that no reimbursement is required by this act for a specified reason.

An act to amend Section 1776 of the Labor Code, relating to public works.

Chapter 741 – Assembly Bill No. 516 (Ramos) — Mitigation Fee Act: fees for improvements: reports and audits.

Existing law, the Mitigation Fee Act, imposes certain requirements on a local agency that imposes a fee as a condition of approval of a development project that is imposed to provide for an improvement to be constructed to serve the development project, or a fee for public improvements, as specified. In this regard, the Mitigation Fee Act requires the local agency to deposit the fee in a separate capital facilities account or fund, and to make certain information about the account or fund public annually, as specified. The Mitigation Fee Act requires that information to include an identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as specified. The Mitigation Fee Act also requires that information to include the amount of refunds made to the owners of the lots or units of the development project, as specified.

This legislation requires the report to include an identification of each public improvement identified in a previous report, whether construction began on the approximate date noted in the previous report, the reason for the delay, if any, and a revised approximate date that the local agency will commence construction, if applicable. The legislation also requires the report to include the number of persons or entities identified to receive refunds.

The Mitigation Fee Act authorizes a person to request an audit to determine whether a fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of a product, public facility, as defined, or service provided by the local agency. Existing law prohibits a local agency from imposing water or sewer connection fees or capacity charges that exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless voter approval is obtained, as specified.

This legislation, except with respect to the above-described connection fees and capacity charges, expands the purposes of the audit to include a determination of when the revenue generated by a fee or charge is scheduled to be expended and when the public improvement is scheduled to be completed.

The legislation requires a local agency to inform a person paying a fee imposed as a condition of approval of a development project, as described above, of their right to request the audit described above and their right to file a written request for mailed notice of the local agency's meeting to review the fee account or fund information made public, as described above. The legislation also requires the local agency to provide the person with a link to the page on the local agency's website where the fee account or fund information made public, as described above, is available for review.

By imposing new duties on local agencies, the legislation imposes a state-mandated local program.

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 legislation provides that no reimbursement is required by this act for a specified reason.

An act to amend Sections 66006, 66008, and 66023 of the Government Code, relating to development fees.

V. INFORMATIONAL

Chapter 158 – Senate Bill No. 756 (Laird) — Water: inspection: administrative procedure: notice: service.

(1) Existing law authorizes the State Water Resources Control Board to investigate all streams, stream systems, lakes, or other bodies of water, take testimony relating to the rights to water or the use of water, and ascertain whether water filed upon or attempted to be appropriated is appropriated under the laws of the state. Existing law requires the board to take all appropriate proceedings or actions to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this state.

This legislation authorizes the board, in conducting an investigation or proceeding for these purposes, to inspect the property or facilities of any person or entity to ascertain certain purposes are being met or compliance with specified requirements. The legislation authorizes the board, if consent is denied for an inspection, to obtain an inspection warrant, as specified, or in the event of an emergency affecting public health and safety pertaining to the particular site under which the inspection is being sought, to conduct an inspection without consent or a warrant. The legislation authorizes the board to participate in an inspection of an unlicensed cannabis cultivation site, as specified. Because the willful refusal of an inspection lawfully authorized by an inspection warrant is a misdemeanor, this legislation imposes a state-mandated local program by expanding the application of a crime.

(2) Existing law authorizes the executive director of the board to issue a complaint to any person or entity on which administrative civil liability may be imposed pursuant to specified law, and requires the complaint to be served by personal notice or certified mail. Existing law requires the board to serve a copy of a decision or order on the parties by personal delivery or registered mail.

This legislation expands methods of notice for those purposes to include notice in accordance with the manner of service of a summons under specified provisions of the Code of Civil Procedure or by any method of physical delivery that provides a receipt.

(3) Existing law authorizes the board to issue a cease and desist order when it determines a specified violation is made. Existing law requires, in the event the violation is occurring or threatening to occur, the board to give notice by personal notice or certified mail, pursuant to which the party shall be informed that they may request a hearing not later than 20 days from the date on which the notice is received, to the person allegedly engaged in the violation.

This legislation expands methods of notice for those purposes to include notice in accordance with the manner of service of a summons under specified provisions of the Code of Civil Procedure, or by any method of physical delivery that provides a receipt.

(4) Existing law, the Porter-Cologne Water Quality Control Act, requires a person who discharges waste into the waters of the state in violation of waste discharge requirements or other order or prohibition issued by a California regional water quality control board or the State Water Resources Control Board to clean up the waste or to abate the effects of the waste. Existing law authorizes the regional board to expend available moneys to perform any cleanup, abatement, or remedial work required under those circumstances. Existing law authorizes a regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by the act, to investigate the quality of any waters of the state within its region.

This legislation authorizes a regional board to participate in an inspection of an unlicensed cannabis cultivation site, as specified.

(5) Existing law requires cease and desist orders issued by the board pursuant to the act to be served by personal service or by registered mail upon the person being charged with the violation of the requirements and upon other affected persons who appeared at the hearing and requested a copy.

This legislation instead requires the cease and desist orders to be served by personal service, certified mail, or by any method of physical delivery that provides a receipt, upon the person being charged with the violation of the requirements, and by first class or electronic mail upon other affected persons who appeared at the hearing and requested a copy.

(6) The act authorizes a regional board to administratively impose civil liability in connection with violations of certain water quality provisions. Existing law authorizes any executive officer of a regional board to issue a complaint to any person on whom administrative civil liability may be imposed, as specified.

This legislation additionally authorizes service of a complaint or order by any method of physical delivery that provides a receipt.

(7) 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 legislation provides that no reimbursement is required by this act for a specified reason.

An act to amend Sections 1055, 1121, 1834, 13267, 13303, and 13323 of, and to add Section 1051.1 to, the Water Code, relating to water.

Chapter 477 – Assembly Bill No. 1684 (Maienschein) — Local ordinances: fines and penalties: cannabis.

Existing law authorizes the legislative body of a local agency, as defined, to make, by ordinance, any violation of an ordinance subject to an administrative fine or penalty, as specified. Existing law requires the ordinance adopted by the local agency to provide for a reasonable period of time, as specified in the ordinance, for a person responsible for a continuing violation to correct or otherwise remedy the violation prior to the imposition of administrative fines or penalties, when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety. Existing law authorizes the ordinance to provide for the immediate imposition of administrative fines or penalties for the violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis, except as specified.

This legislation expands the authorization for an ordinance providing for the immediate imposition of administrative fines or penalties to include all unlicensed commercial cannabis activity, including cultivation, manufacturing, processing, distribution, or retail sale of cannabis, and authorizes the ordinance to declare unlicensed commercial cannabis activity a public nuisance. The legislation prohibits the ordinance from imposing an administrative fine or penalty exceeding $1,000 per violation or $10,000 per day. The legislation authorizes the ordinance to impose the administrative fine or penalty on the property owner and each owner of the occupant business entity engaging in unlicensed commercial cannabis activity and to hold them jointly and severally liable. The legislation authorizes a local agency that adopts an ordinance authorized by this provision to refer a case involving unlicensed commercial cannabis activity to the Attorney General, as specified.

An act to amend Section 53069.4 of the Government Code, relating to local government.

Chapter 486 – Senate Bill No. 389 (Allen) — State Water Resources Control Board: investigation of water right.

Existing law establishes the State Water Resources Control Board within the California Environmental Protection Agency. Existing law provides generally for the appropriation of water. Existing law authorizes the board to investigate bodies of water, to take testimony in regard to the rights to water or the use of water, and to ascertain whether or not water is appropriated lawfully, as provided. Under existing law, the diversion or use of water other than as authorized by specified provisions of law is a trespass, subject to specified civil liability.

This legislation instead authorizes the board to investigate and ascertain whether or not a water right is valid. The legislation authorizes the board to issue an information order in furtherance of an investigation, as executed by the executive director of the board, as specified. The legislation authorizes a diversion or use of water ascertained to be unauthorized to be enforced as a trespass, as specified.

An act to amend Section 1051 of the Water Code, relating to water.

Chapter 498 – Senate Bill No. 676 (Allen) — Local ordinances and regulations: drought-tolerant landscaping.

Existing law prohibits a city, including a charter city, county, and city and county, from enacting or enforcing any ordinance or regulation that prohibits the installation of drought-tolerant landscaping, synthetic grass, or artificial turf on residential property, as specified.

This legislation instead prohibits a city, including a charter city, county, or city and county from enacting or enforcing any ordinance or regulation that prohibits the installation of drought-tolerant landscaping using living plant material on residential property. The legislation specifies that drought-tolerant landscaping does not include the installation of synthetic grass or artificial turf.

The legislation includes findings that changes proposed by this legislation address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

An act to amend Section 53087.7 of the Government Code, relating to local government.

Chapter 605 – Senate Bill No. 411 (Portantino) — Open meetings: teleconferences: neighborhood councils.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body.

This legislation, until January 1, 2026, authorizes an eligible legislative body to use alternate teleconferencing provisions related to notice, agenda, and public participation, as prescribed, if the city council has adopted an authorizing resolution and $^{2}/_{3}$ of an eligible legislative body votes to use the alternate teleconferencing provisions. The legislation defines "eligible legislative body" for this purpose to mean a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the act. The legislation requires an eligible legislative body authorized under the legislation to provide publicly accessible physical locations for public participation, as prescribed. The legislation also requires that at least a quorum of the members of the neighborhood council participate from locations within the boundaries of the city in which the neighborhood council is established. The legislation requires that, at least once per year, at least a quorum of the members of the eligible legislative body participate in person from a singular physical location that is open to the public and within the boundaries of the eligible legislative body.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This legislation makes legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This legislation makes legislative findings to that effect.

This legislation makes legislative findings and declarations as to the necessity of a special statute for the neighborhood councils of the City of Los Angeles.

This legislation declares that it is to take effect immediately as an urgency statute.

An act to add and repeal Section 54953.8 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

Chapter 624 – Senate Bill No. 659 (Ashby) — California Water Supply Solutions Act of 2023.

Existing law requires the Department of Water Resources to update every 5 years the plan for the orderly and coordinated control, protection, conservation, development, and use of the water resources of the state, which is known as "The California Water Plan." Existing law requires the department to establish an advisory committee, composed of representatives of agricultural and urban water suppliers, local government, business, production agriculture, and environmental interests, and other interested parties, to assist the department in the updating of the California Water Plan. Existing law requires the department to include a discussion of various strategies in the plan update, including, but not limited to, strategies relating to the development of new water storage facilities, water conservation, water recycling, desalination, conjunctive use, water transfers, and alternative pricing policies that may be pursued in order to meet the future needs of the state.

This legislation establishes the California Water Supply Solutions Act of 2023 to require the department, as part of the 2028 update, and each subsequent update thereafter to the California Water Plan, to provide actionable recommendations to develop additional groundwater recharge opportunities that increase the recharge of the state's groundwater basins, as provided. The legislation requires the department to consult with the State Water Resources Control Board, the 9 regional water quality control boards, and the advisory committee, which may be enlarged as provided, in carrying out these provisions. The legislation requires the recommendations to identify immediate opportunities and potential long-term solutions to increase the state's groundwater supply, and include, among other things, best practices to advance all benefits of groundwater recharge, as specified.

An act to amend Section 10004 of, and to add Section 10004.7 to, the Water Code, relating to groundwater.

Chapter 735 – Assembly Bill No. 281 (Grayson) — Planning and zoning: housing: postentitlement phase permits.

Existing law, which is part of the Planning and Zoning Law, requires a local agency to compile a list of information needed to approve or deny a postentitlement phase permit, to post an example of a complete, approved application and an example of a complete set of postentitlement phase permits for at least 5 types of housing development projects in the jurisdiction, as specified, and to make those items available to all applicants for these permits no later than January 1, 2024. Existing law establishes time limits for completing reviews regarding whether an application for a postentitlement phase permit is complete and compliant and whether to approve or deny an application, as specified, and makes any failure to meet these time limits a violation of specified law. Existing law defines various terms for these purposes, including "local agency" to mean a city, county, or city and county, and "postentitlement phase permit," among other things, to exclude a permit required and issued by a special district.

This legislation requires a special district that receives an application from a housing development project for service from a special district or an application from a housing development project for a postentitlement phase permit, as specified, to provide written notice to the applicant of next steps in the review process, including, but not limited to, any additional information that may be required to begin to review the application for service or approval. The legislation requires the special district to provide this notice within 30 business days of receipt of the application for a housing development with 25 units or fewer, and within 60 business days for a housing development with 26 units or more. The legislation defines various terms for these purposes. By imposing additional duties on special districts, the legislation imposes a state-mandated local program.

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 legislation provides that, if the Commission on State Mandates determines that the legislation contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

An act to add Section 65913.3.1 to the Government Code, relating to planning and zoning.

Chapter 752 – Assembly Bill No. 1033 (Ting) — Accessory dwelling units: local ordinances: separate sale or conveyance.

Existing law, the Planning and Zoning Law, authorizes a local agency, by ordinance or ministerial approval, to provide for the creation of accessory dwelling units in areas zoned for residential use, as specified. Existing law requires the ordinance to include specified standards, including prohibiting the accessory dwelling unit from being sold or otherwise conveyed separate from the primary residence, except as provided by a specified law.

Existing law, notwithstanding the prohibition described above, requires a local agency to allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if certain conditions are met, including that the property was built or developed by a qualified nonprofit corporation and that the property is held pursuant to a recorded tenancy in common agreement that meets specified requirements.

This legislation, in addition, authorizes a local agency to adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums, as specified, and makes conforming changes.

By imposing new duties on local governments with respect to the approval of accessory dwelling units, the legislation imposes a state-mandated local program.

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 legislation provides that no reimbursement is required by this act for a specified reason.

This legislation makes a related statement of legislative findings and declarations.

This legislation incorporates additional changes to Section 65852.2 of the Government Code proposed by AB 976 to be operative only if this legislation and AB 976 are enacted and this legislation is enacted last.

An act to amend Sections 65852.2 and 65852.26 of the Government Code, relating to housing.