

Bond Case Briefs

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New Year, New Laws Impacting Public Agencies In California - Part I

2019 Brings Changes to Election, Revenue, Conflict of Interest, Property and Public Safety Laws... and More

The California Legislature passed a number of laws last year that will have a significant impact on how public agencies — including cities and counties, special districts, schools and school districts and more — do business. In this Legal Alert series, Best Best & Krieger LLP summarizes these new laws. Please be sure to contact us for further information. All laws went into effect Jan. 1, unless otherwise noted.

Elections

SB 759: Elections: vote by mail ballots

Previously, the law prohibited an elections official from counting mailed-in ballots if the voter's signature did not match the signature on the voter's affidavit of registration or the signature on the form provided as part of the voter's registration record. This bill lifts the counting prohibition and requires the elections official to notify the voter, and give the voter the opportunity to verify his or her signature, before certification of the election. Certain state-mandated costs associated with the bill will be reimbursed to the local agency.

Revenue

AB 888: Charitable raffles

Under the California Constitution, a major league sports organization is authorized to conduct a raffle if 50 percent of the gross receipts directly support a California beneficial or charitable purpose or financially support a private nonprofit organization. The amount of the gross percentage can also be amended by statute, by a 2/3 vote of both houses. This measure extends the operation of these provisions until Jan. 1, 2024.

SB 961: Enhanced infrastructure financing districts

Enhanced infrastructure financing districts undertake economic development projects for public facilities, affordable housing and economic revitalization with funding from voter-approved bonds. Under the Neighborhood Infill Finance and Transit Improvements Act, a city or county is authorized to adopt a resolution to allocate tax revenues from that entity to the EIFD. This new law enacts the Second Neighborhood Infill Finance and Transit Improvements Act, which follows the provisions of the original Neighborhood Infill, provided that the area financed is within 1/2 mile of a major transit stop, and the issuance of bonds does not require voter approval. Under the Second Neighborhood Infill, the EIFD must follow certain notice, protest and election proceedings for the adoption of the financing plan.

SB 1145: Enhanced Infrastructure financing districts: maintenance

Previously, the legislative body of a city or county could establish an enhanced EIFD to finance capital facilities or certain community projects. It authorized the issuance of bonds to fund this work

if approved by 55 percent of the voters. This measure authorizes a district to finance ongoing or capitalized costs to maintain capital facilities, but prohibits the use of bond proceeds to finance maintenance of any kind.

Conflicts of Interest

SB 1239: Political Reform Act of 1974: campaign disclosures

This new law amends the Political Reform Act of 1974 to include online and electronic filing processes for elected officials, candidates and committees who are required to file statements and reports with the Secretary of State's Office. The law repeals former monetary restrictions and makes the online and electronic filing requirements applicable to all specified filers. The new law extends the deadline for payment of the annual fee to April 30 of each year, and requires the funding details statement to direct the reader to the Secretary of State's website for a list of top contributors. The law requires that statements and reports be signed under penalty of perjury, and provides that any violation of the law is punishable as a misdemeanor. By expanding the scope of existing crimes, the law imposes a state-mandated local program, but also provides that the state is not required to reimburse local agencies for the mandated costs for a specified reason.

Public Property

AB 939: Local Government: taxicab transportation services

This measure makes it unlawful to operate a taxicab company without a valid permit issued by a city or county where the taxicab company is "substantially located" (as defined), and requires a city or county to adopt an ordinance or resolution providing for a permitting program for taxicab drivers of those companies. The bill removes the prohibition that a taxicab company or driver cannot operate in a county unless the company or driver are substantially located in at least one city within the county or the unincorporated area of that county. It also authorizes a permitted taxicab company to prearrange trips anywhere in that county subject to compliance with vehicle inspection requirements and a mandatory controlled substance and alcohol testing certification program for drivers.

AB 1999: Local Government: public broadband services

This measure expands the government entities expressly authorized to own broadband facilities and provide broadband Internet services. The bill allows a county service area to build, maintain or operate broadband Internet access services, and allows an infrastructure financing district or EIFD to transfer the management and operation of any broadband facility to a local agency. The bill also applies net neutrality provisions to the broadband Internet services provided by county service areas, local agencies and community service districts. Additionally, the bill removes the requirement that a community services district first determine that a private party is unwilling or unable to provide broadband services before the district may construct, own, improve, maintain or operate broadband facilities, and the bill no longer requires that the district lease or transfer title of the broadband facilities if a private party offers to provide those services.

AB 2179: Municipal corporations: public utility service: water and sewer service

This bill simplifies the voting requirements for a municipal corporation to consolidate its sewer service with neighboring sewer systems. A municipal corporation owning and operating a public utility offering sewer service outside its boundaries may lease, sell or transfer that part of its service to another public entity or utility with a majority vote of its legislative body and adequate justification. A municipal corporation that wants to sell the public utility offering sewer services within its boundaries may now do so with a majority vote of its legislative body and its electorate, instead of a super majority vote. The measure also provides that an acquiring entity must satisfy certain disclosure requirements to the public.

AB 2339: Water utility service: sale of water utility property by a city

Until Jan. 1, 2022, this measure authorizes the cities of El Monte, Montebello and Willows to sell their water utility services and consolidate with another water utility service located within the boundaries of the city, if the city determines that it is uneconomical and not in the public interest to own and operate the its water utility service, and if other requirements are met. If 50 percent of interested persons protest the sale, the measure would prohibit the city from selling the water utility service for 1 year.

AB 2392: Vehicles: towing and storage

This bill requires that storage fees for a towed vehicle be reasonable as defined. The bill also provides additional consumer protections, including the requirement that facilities are open and accessible during business hours. The measure also applies to repair garages or service stations that charge for vehicle storage.

AB 2544: Parking Penalties

Currently, processing agencies can use the Department of Motor Vehicles to collect unpaid parking citations and late fees. Beginning July 1, this measure requires processing agencies to provide a payment plan option and a waiver of late fees to indigent people before sending an itemization of unpaid parking penalties to the DMV.

AB 2876: Vehicles: removal and impound authority

This measure reinforces state and federal constitutional protections to vehicle owners by providing that a warrantless removal of a vehicle must be reasonable under Fourth Amendment jurisprudence. Moreover, the new law provides that a warrantless removal based on community caretaking is only reasonable if it is necessary to achieve the community caretaking need, such as ensuring the safe flow of traffic, or protecting the property from theft or vandalism.

SB 946: Sidewalk vendors

This measure seeks to protect sidewalk vendors from criminal penalties by requiring local authorities that elect to adopt a sidewalk vending program to comply with certain time, place and manner provisions. The measure addresses the regulation of sidewalk vendors in public rights of way, public parks, certified farmer's markets and permitted swap meets, and imposes an administrative fine (based on an ability to pay) for any violation instead of a criminal penalty. A local authority is not required to adopt a new program if its existing program substantially complies with the provisions of this new law. (More information can be found [here](#).)

Public Safety**AB 1747: School Safety Plans**

This measure imposes a state mandated program requiring that all public schools, kindergarten to grade 12, develop a comprehensive school safety plan, in cooperation with the fire department and other first responder entities, including strategies for tactical responses to criminal incidents, and training of all school staff about the safety plan.

AB 1793: Cannabis-convictions resentencing

The Control, Regulate and Tax Adult Use of Marijuana Act, known as AUMA, enacted by voters in 2016 allows the possession, processing, purchasing and transporting of cannabis for people over 21 years of age. As such, the AUMA allows a person to petition for the recall or dismissal of a sentence, the dismissal and sealing, or the redesignation of a cannabis conviction. This new law goes one step further and requires the Department of Justice to review the state criminal history database before July 1, 2019, and notify prosecutors of all cases that are eligible for recall, dismissal, sealing or the redesignation of a conviction. The law further requires prosecutors to review all cases before July 1,

2020 to determine whether to challenge a case. Prosecutors may challenge a case if an individual is ineligible or poses an unreasonable risk to public safety, and must comply with certain notice requirements. The measure also requires the court to reduce or dismiss the conviction if there is no challenge by July 2, 2020. The law also requires the Department of Justice to modify the state criminal history database to conform to any changes in an individual's status within 30 days.

AB 2989: Motorized scooter: use of helmet: maximum speed

Previous law prohibited motorized scooter operation on a highway with a speed limit over 25 miles per hour (unless operated in a Class II bike lane). It also required a person to drive a motorized scooter no faster than 15 miles per hour (regardless of the speed limit). The new law maintains this speed limit in general, but allows a local authority to authorize motorized scooters on highways with a speed limit up to 35 miles per hour, and higher if the scooter is operated in a Class IV bikeway. The new law requires an operator under 18 years of age to wear a helmet.

AB 3077: Vehicles: bicycle helmets

Under the Vehicle Code, a minor must wear a bicycle helmet while operating or riding a bicycle, scooter, skateboard or skates on a public street, bike path or trail. Violators can be cited and issued a \$25 fine. This measure provides a corrective mechanism for a minor who has been cited or fined for failure to wear a helmet. The new law prohibits an issuing agency from transmitting a record of the citation to the court or imposing a fee, if a parent or legal guardian of the infracting minor delivers proof to the issuing agency within 120 days that the minor has a helmet and has completed a local bicycle safety course.

SB 1205: Fire protection services: inspections: compliance reporting

The new law requires that every city, county or district fire department required to annually inspect buildings used as a public or private school and certain other structures, including hotels, motels, lodging houses and apartment houses for compliance with building code standards must now annually report on compliance with the inspections to its administrative authority. The measure also requires that the administering authority acknowledge receipt of the report by resolution or similar document. If the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs will be made.

Miscellaneous

AB 1884: Food facilities: single-use plastic straws

This measure prohibits a full-service restaurant from providing single-use plastic straws to customers unless requested by the customer. The new law provides that first and second violations of the provisions will result in a notice of violation, and subsequent violations will be considered an infraction punishable by a \$25 fine for each day the restaurant is in violation, not to exceed \$300 a year. The provisions will be enforced by California Retail Food Code officers. This bill imposes a state-mandated local program and reimbursement for costs will be made.

AB 2178: Limited service charitable feeding operation

A limited service charitable feeding operation provides food service to a consumer for charity administered by a nonprofit organization. The bill exempts such operations from the provisions of the California Retail Food Code except for general food and safety requirements. With some exceptions, the organization must register with a local enforcement agency. The bill authorizes the operation to distribute food in an outdoor location for 4 hours per day, using best management practices and subject to the approval of the local enforcement agency. The operation cannot provide food service unless it has registered with the local law enforcement agency. The bill authorizes the local enforcement agency to recover reasonable regulatory costs from the operation. If the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs will be made.

SB 1498: Local Government Omnibus Act of 2018

Lastly, the Legislature compiles several minor, local government-related bills into a single omnibus bill. While some of these are non-substantive technical updates, there are some changes that do impact cities and other local agencies. In general, the substantive changes in the bill remove various inefficiencies in existing statutes.

There is a trend in recent legislation to use local agencies' websites as a means to provide more efficient and effective notice to constituents. This bill continues that trend in two ways. First, the Mello-Roos Community Facilities Act of 1982 requires cities and other local agencies to report information on their community facilities districts' bonds and expenditures to the State, and to display the reported information prominently on their websites. This bill would allow cities to simply link to the information on the State Treasurer's website, along with other identifying information. Similarly, when forming an EIFD, cities must mail information about the proposed district to affected landowners. This bill enables cities to mail a single-page notice that provides information regarding the website, where the full documents are available.

The Legislature has also removed a redundancy in the process for forming a property and business improvement district. Cities were previously required to adopt both a resolution of formation and resolution of establishment, containing the same information. This bill removes the need for a second resolution. For special districts, previous law required the State Controller to report annually on the fund balance, retained earnings, fixed assets and cash investments of each agency. This bill simply requires that the report be consistent with generally accepted accounting principles and Governmental Accounting Standards Board statements. Additionally, for counties with population in excess of 200,000, the purchasing agent may contract with independent contractors when the annual aggregate cost does not exceed \$100,000. This bill increases the threshold to \$200,000.

Next in the New Public Agency Law Legal Alert Series:

- Thursday: Housing, Land Use and the Environment
- Later: Legislation and court decisions impacting the California Public Record Act

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