

Date of Hearing: June 15, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Susan Talamantes Eggman, Chair  
SB 974 (Committee on Governance and Finance) – As Amended June 2, 2016

**SENATE VOTE:** 39-0

**SUBJECT:** Local government: omnibus.

**SUMMARY:** Enacts the Local Government Omnibus Bill of 2016, which proposes a number of non-controversial changes to existing laws governing the powers and duties of local agencies.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:**

- 1) **Bill Summary.** This bill enacts the Local Government Omnibus Act of 2015, which includes the following provisions:
  - a) **County Recorders.** County recorders accept and officially record legal documents, notices, or papers, including survey maps. State law requires that a record of survey filed with a county recorder must be securely fastened into a suitable book provided for that purpose. The County Recorders Association of California notes that this requirement does not conform to modern best practices for storing recorded final and parcel maps. This bill allows a county recorder, as an alternative to fastening maps in a book, to store recorded survey maps in any manner that assures the maps will be kept together. In the same statute, the bill also replaces outdated references to "he" and "him" with gender-neutral terms.
  - b) **Veterans' Records.** State law requires that certified copies of specified recorded documents related to an individual's military service may be made available only to four types of requesters, including a county office that provides veterans' benefit services. The County Recorders Association of California notes that this requirement prohibits county recorders from providing certified copies of military service records to city or state offices that provide veterans' benefit services. This bill allows any state, county, or city office that provides veterans' benefit services to request and receive certified copies of military service records.
  - c) **Notaries and Certified Mail.** State law requires that specified communications between a notary public and the Secretary of State's Office be made using certified mail. The California Association of Clerks and Elections Officials notes that a narrow reading of the certified mail requirement could prohibit a notary public from communicating with the Secretary of State's Office using other similar means of delivery that provide a receipt, like overnight or express delivery services. This bill allows specified communications between a notary public and the Secretary of State's Office to use, in addition to certified mail, any other means of physical delivery that provides a receipt.

- d) **Board of Equalization – Floating Homes.** State law defines a "floating home" as a floating structure that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling; has no mode of power of its own; is dependent for utilities upon a continuous utility linkage to a source originating on shore; and, has a permanent continuous hookup to a shore side sewage system. A floating home is not categorized as a vessel, but is assessed for property tax purposes in the same manner as real property. State law prescribes the powers and duties of the State Board of Equalization (BOE), including the adoption of rules, regulations, and instructions relating to mobile homes which are subject to property taxation. The California Assessor's Association notes that the statutes prescribing the BOE's powers and duties lack any explicit reference to floating homes. This bill allows the BOE to exercise powers relating to rules, regulations, and instructions for floating homes that are the same as the powers that state law allows the BOE to exercise for mobile homes.
- e) **Notaries' Oaths.** State law specifies the manner in which a notary public must file an oath of office with a county clerk. The California Association of Clerks and Elections Officials notes that state law does not require a county clerk to confirm the identity of an individual taking the oath as a notary public. This bill requires a person taking the notary public oath of office before a county clerk to provide an identification document that meets specified statutory requirements. This bill also allows the oath of office to be filed with the county clerk by any means of physical delivery that provides a receipt, in addition to certified mail.
- f) **Cities' Financial Transaction Reports.** State law requires cities to furnish the State Controller with annual reports of their financial transactions and requires city clerks to either publish or publicly post the contents of the annual reports that cities submit to the Controller. Last year, the Legislature extended, until seven months after the end of a local agency's fiscal year, the deadline for submitting an annual financial transactions report to the Controller [AB 341 (Achadjian), Chapter 37, Statutes of 2015]. The League of California Cities notes that the statutory deadline by which city clerks must publish or post the annual reports was not extended, and now falls well before the deadline for submitting the reports to the Controller. This bill conforms the deadline before which city clerks must publish or post annual financial transactions reports to the timelines established by last year's Achadjian bill.
- g) **Local Artificial Turf Regulations.** State law prohibits local governments from adopting ordinances or regulations that prohibit the installation of drought tolerant landscaping, synthetic grass, or artificial turf on residential property. However, local governments may impose reasonable restrictions on the type of drought tolerant landscaping, synthetic grass, or artificial turf that may be installed on residential property provided that those restrictions do not substantially increase the cost of installing drought tolerant landscaping, synthetic grass, or artificial turf; effectively prohibit the installation of drought tolerant landscaping, synthetic grass, or artificial turf; or, significantly impede the installation of drought tolerant landscaping, including, but not limited to, a requirement that a residential yard must be completely covered with living plant material.

Some City of Sacramento officials are concerned that, in at least some situations, state law may not allow local governments to impose restrictions on the installation of synthetic grass or artificial turf to prevent damage to trees that are protected by local

ordinances. This bill allows a city, including a charter city, county, or city and county, to impose reasonable restrictions on the installation of synthetic grass or artificial turf within the dripline of a tree protected by local ordinance.

- h) **Local Agency Investment Requirements.** Since 1913, state law has authorized local officials to invest a portion of their temporarily idle funds in a variety of financial instruments. State law allows local officials to invest in some financial instruments only if the instrument receives a specified rating from a nationally recognized statistical rating organization (NRSRO), like Fitch, Moody's, or Standard & Poor's. NRSROs assign specific investment vehicles into ratings categories (usually designated with a letter-grade, like "A" or "B") and further differentiate investment vehicles' relative standing within those general ratings categories by attaching various modifiers (like "A+", "A-") that indicate whether a particular investment vehicle falls within the high, middle, or low range of a ratings category.

The State Treasurer's Office notes that some public officials and investment industry professionals disagree about how to interpret some state laws that require an investment vehicle to have a specified rating. For example, it is ambiguous whether a statute that requires an investment instrument to have an "A" rating or higher allows investments in any instrument within the "A" category or allows investments only in instruments within the middle or upper range of the "A" category. This bill clarifies some statutory ratings requirements by specifying that some ratings requirements refer to a ratings category and specifying that the rating specified in statute also applies to "equivalent" ratings (i.e., a requirement that an investment instrument must have an "A1" rating also allows for investment in an instrument with a "AAA" rating).

- i) **Hearing Notice Cross-Reference.** State law specifies the manner in which local governments must provide notice of public hearings relating to planning and land use. One statute requires that notice of a hearing must be mailed or delivered to a local agency that is expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to a project; and, all owners of real property located within 300 feet of real property that is the subject of a hearing.

A senior deputy in the Monterey County Counsel's office notes that amendments made by AB 2867 (Torrico), Chapter 363, Statutes of 2006, renumbered the statute's provisions but failed to change a cross-reference. As a result, some notice requirements that used to be related to the mailing or delivery of notice to property owners now appear to be related to the mailing or delivery of notice to public agencies. This bill changes the cross-reference to refer to the same section of statute that it referred to before 2006.

- j) **General Plan Safety Element Updates.** Current law requires counties and cities, upon each revision of their general plans' housing elements, to review and, if necessary, revise their general plans' safety elements to identify new flood and fire hazard information that wasn't available at the time the safety element was previously revised to address flood and fire hazards. Last year, the Legislature passed SB 379 (Jackson), Chapter 608, Statutes of 2015, which requires cities and counties to review and update their general plans' safety elements to address climate adaptation and resiliency. SB 379 added a cross-reference to existing law to require that a general plan's safety element must be reviewed and updated to add new information about risks posed by climate change upon

each revision of the general plan's housing element, as is already required for flood and fire risks.

Senator Jackson's staff notes that, unlike earlier bills requiring safety plan updates for flood and fire risks, SB 379 requires the safety element to be updated to address climate change risks upon the next update of a local hazard mitigation plan, and not the housing element. The League of California Cities wants to further clarify that a housing element update does not trigger a requirement to update the safety element with climate change and resiliency information. This bill deletes the erroneous cross-reference enacted by last year's SB 379 and clarifies that additional information relating only to flood and fire hazards must be identified in a revised general plan safety element after each revision of a general plan housing element.

- k) **Fort Ord Reuse Authority's Board.** After federal officials closed the Fort Ord military base in Monterey County, the Legislature passed the Fort Ord Reuse Authority Act, which created the Fort Ord Reuse Authority (FORA) to coordinate the former base's transition. State law allows FORA's board to include, as ex officio nonvoting members: a representative designated by the Member of Congress from the 17th Congressional District; a representative designated by the Senator from the 15th Senate District; and, a representative designated by the Assembly Member from the 27th Assembly District.

Senator Monning's staff notes that redistricting has changed the numbers that are assigned to congressional, state senate, and state assembly districts, so that the district numbers identified in statute no longer correspond to districts representing the Fort Ord area. This bill allows the congressman, state senator, and state assemblymember whose districts include the majority of Fort Ord to appoint representatives to FORA's board.

- l) **Fire Protection District Resolution of Application.** Current law allows a city council or county board of supervisors to propose forming a new fire protection district by adopting a "resolution of application" that meets specified requirements. A related statute requiring a local agency formation commission to act on proposals to form new fire protection districts erroneously refers to a "resolution or application." To clarify that statute's meaning, this bill replaces the word "or" with the word "of" so that the statute refers to a "resolution of application."
- m) **Sewer Agency Ordinances and Resolutions.** Many state laws provide that local agencies may take specified actions only by adopting an ordinance, only by adopting a resolution, or by either adopting an ordinance or a resolution. Irvine Ranch Water District staff notes that several statutes governing local governments that operate sanitary sewers and sewerage systems contain inconsistent language specifying whether an agency must adopt an ordinance, a resolution, or either one to fix and collect fees or charges and take other actions related to its operation of a sanitary sewer or sewerage system. This bill amends existing statutes to consistently authorize a local agency to adopt either an ordinance or a resolution.
- n) **Best Value Definition.** Last year, the Legislature passed SB 762 (Wolk), Chapter 627, Statutes of 2015, which allows seven specified counties to award construction contracts through a "best value" procurement process and modifies the definitions of "best value"

in statutes allowing the state and local government officials to use the design-build contracting method for some public works. The Legislature also passed SB 374 (Hueso), Chapter 715, Statutes of 2015, which authorized the San Diego Association of Government to use design-build for transit capital projects and development projects adjacent or related to transit facilities. Both SB 762 and SB 374 made different amendments to Public Contract Code §22161. Senator Wolk's staff notes that because SB 374 was signed into law after SB 762, its language erased – or “chaptered out” – the changes that SB 762 made to the definition of “best value” in Public Contract Code §22161. This bill restores the changes to the definition of best value that were chaptered out by SB 374.

- o) **Vehicle License Fee Calculation.** In lieu of a property tax on motor vehicles, the state collects an annual Vehicle License Fee (VLF) and allocates the revenues, minus administrative costs, to cities and counties. As a part of the complex statutory requirements for allocating VLF revenues, state law requires the State Controller to use a specified formula to determine the population of certain recently incorporated cities. The State Controller's staff notes that statutes requiring this calculation contain erroneous cross-references to the definition of a city's “actual population.” To clarify this law's meaning, this bill corrects cross-references to the definition of a city's “actual population.”
- p) **County Clerk References.** In 2002, state law was amended to shift the responsibility for entering some superior court judgements from county clerks to the Clerk of the Court. The California Association of Clerks and Elections Officials notes that two statutes relating to superior court judgements contain outdated references to a county clerk. This bill replaces the term “county clerk” with the term “Clerk of the Court” in those two statutes.
- q) **Highway User Tax Account Allocations.** The State allocates funds from the Highway Users Tax Account (HUTA), to cities and counties for local street and road maintenance. The apportionment amount for revenues from the Use Fuel Tax Law is calculated and distributed based on specific formulas and rates established in Revenue & Taxation Code § 8651, §8651.5, and §8651.6. The State Controller's staff notes that Streets and Highways Code §2105 only references Revenue and Taxation Code §8651 for the calculation, omitting references to §8651.5 and §8651.6. To ensure that the apportionments to cities and counties required by Streets & Highways Code §2105 are calculated properly, this bill adds the omitted cross-references.
- r) **Property and Business Improvement District Law of 1994.** The Property and Business Improvement District Law of 1994 allows property owners to petition a city or county to set up an improvement district (PBID) and levy assessments on property owners, business owners, or both, to pay for promotional activities as well as for physical improvements (AB 3754, Caldera, 1994). Practitioners who work with PBIDs have identified errors and ambiguities in the 1994 Act. They want the Legislature to make the following corrections and clarifications:
  - i) **Specific Benefit.** Pursuant to the California Constitution, PBIDs' assessments on businesses must be imposed for the purpose of conferring a specific benefit on the businesses that are assessed. To conform the 1994 Act's language to this

Constitutional requirement, this bill adds language to two statutes to specify that PBIDs' assessments must be used to confer a specific benefit or benefits on assessed businesses.

- ii) **Consistent Terminology.** In general, the 1994 Act uses the term "district" to describe the territory within a PBID's boundaries. However, two statutes use the term "area" to describe territory within a PBID's boundaries. To make the Act's language more consistent, this bill replaces the term "area" with the term "district" in those two statutes.
  - iii) **Funding for Extraterritorial Improvements and Activities.** The 1994 Act prohibits a PBID from using assessment revenues to provide improvements, maintenance, and activities outside the district. However, marketing and promotional activities are among the services that a PBID can fund. Some practitioners argue that it is ineffective to limit those activities only to the area within the boundaries of the PBID itself. This bill allows a PBID to provide improvements and activities which must be provided outside the district boundaries to create a special or specific benefit to assessed parcels or businesses and specifies that the allowable activities are limited to marketing or signage pointing to the district.
  - s) **Kern County Water Agency.** The Kern County Water Agency (KCWA) is governed by a seven-member elected board of directors and is responsible for delivering water from the state water project to local water agencies with which it contracts. State law requires KCWA, in addition to all other requirements in state law, to additionally obtain the Kern County Board of Supervisor's approval before it can levy a tax, create a benefit zone, or adopt a budget. KCWA officials note that in light of the many voter-approval and public hearing requirements in state law that apply to local agencies' taxes and budgets, the requirement for KCWA to seek the board of supervisors' approval is duplicative and unnecessary. State law does not require most other special districts to obtain a board of supervisors' approval before levying taxes or adopting a budget. This bill deletes the requirement that KCWA must get the board of supervisors' approval before levying taxes, creating benefit zones, or adopting a budget. This bill also deletes a section of law authorizing Kern County employees to perform duties and provide services for the KCWA, subject to specified conditions.
- 2) **Author's Statement.** According to the author, "SB 974 compiles, into a single bill, noncontroversial statutory changes to...state laws that affect local agencies and land use. Moving a bill through the legislative process costs around \$18,000. By avoiding (numerous) other bills, the Committee's measure avoids more than \$250,000 in legislative costs. Although the practice may violate a strict interpretation of the single-subject and germaneness rules, the Committee insists on a very public review of each item. More than 100 public officials, trade groups, lobbyists, and legislative staffers see each proposal before it goes into the Committee's bill. Should any item in SB 974 attract opposition, the Committee will delete it. In this transparent process, there is no hidden agenda. If it's not consensus, it's not omnibus."
- 3) **State Mandate.** This bill is keyed a state mandate, which means the state could be required to reimburse local agencies and school districts for implementing the bill's provisions if the Commission on State Mandates determines that the bill contains costs mandated by the state.

- 4) **Chaptering Conflicts.** Because provisions of this bill conflict with provisions in AB 2651 (Gomez) and SB 1000 (Leyva), the author may wish to amend the bill to avoid any chaptering out issues that could occur because of the conflict.
- 5) **Arguments in Support.** Supporters note that this bill assists them with their mission and duties by making several non-controversial changes to the statutes governing local governments.
- 6) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association of County Treasurers and Tax Collectors  
Kern County Water Agency

**Opposition**

None on file

**Analysis Prepared by:** Angela Mapp / L. GOV. / (916) 319-3958