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GOVERNMENT CODE - GOV

TITLE 4. GOVERNMENT OF CITIES [34000 - 45345] (Title 4 added by Stats. 1949, Ch. 79.)

DIVISION 3. OFFICERS [36501 - 41805] (Division 3 added by Stats. 1949, Ch. 79.)

PART 2. LEGISLATIVE BODY [36801 - 40592] (Part 2 added by Stats. 1949, Ch. 79.)

CHAPTER 10. Health and Safety [38600 - 38794] (Chapter 10 added by Stats. 1949, Ch. 79.)

ARTICLE 5. Water [38730 - 38745] (Article 5 added by Stats. 1949, Ch. 79.)

38730. A city may acquire by gift, purchase, or condemnation, water, water rights, reservoir sites, rights of way for pipes, aqueducts, flumes, or other conduits, and all other property and appliances suitable and proper to supply water for the use of the city and its inhabitants.

(Added by Stats. 1949, Ch. 79.)

38731. Two or more cities may jointly acquire and develop a source of water supply for municipal and domestic purposes and construct the works necessary for their joint and several purposes and needs.

(Added by Stats. 1949, Ch. 79.)

38732. When a city legislative body deems it advisable to investigate the desirability of joint action with any other city for acquiring and maintaining a water supply, the legislative body shall pass a resolution so stating. With the consent and advice of the legislative body, the mayor shall appoint three commissioners to confer with like commissioners from the other city.

(Added by Stats. 1949, Ch. 79.)

38733. The commissioners from the several cities shall meet and consider the desirability of the joint acquisition and development of a water supply and the plans and terms they deem feasible and equitable. If they agree upon the plans and terms, they shall report them to their legislative bodies.

(Added by Stats. 1949, Ch. 79.)

38734. If the legislative bodies approve the plans and terms reported by the commissioners, they shall declare their approval by resolution and submit them to the qualified voters of their respective cities for approval or rejection at the next city election or at a special election called for that purpose.

(Added by Stats. 1949, Ch. 79.)

38735. If the terms and plans are approved by a majority of the voters voting on the proposition at the election, the cities may begin developing or acquiring the water supply in accordance with the plans and terms.

(Added by Stats. 1949, Ch. 79.)

38736. Any city may issue bonds to complete the acquisition of a water supply jointly with other cities. All proceedings relating to the issue of such bonds shall be taken pursuant to law for the issue of bonds to acquire a water supply.

(Added by Stats. 1949, Ch. 79.)

38737. Joint ownership and costs shall be restricted to those portions of the sources and works which are common to all the cities served. Each city shall exclusively own, construct, and operate those sources and works which are for its exclusive use.

(Added by Stats. 1949, Ch. 79.)

38738. The apportionment of all costs of acquisition, construction, operation, and maintenance of the joint properties shall be made upon the basis of the amount of water proposed to be apportioned to the several cities, unless a different apportionment of costs is agreed upon.

(Added by Stats. 1949, Ch. 79.)

38739. The total costs of works which exclusively serve one city shall be borne by that city exclusively.

(Added by Stats. 1949, Ch. 79.)

38740. The plans and terms or other agreement for acquiring the water supply may be modified by agreement between the cities, as declared by the legislative bodies.

(Added by Stats. 1949, Ch. 79.)

38741. Before a resolution or ordinance relating to the joint acquisition of a water supply is binding upon a city, it shall be approved by the mayor or passed over the mayor's veto pursuant to the charter provision or general law for the passage of ordinances.

(Amended by Stats. 2018, Ch. 467, Sec. 28. (SB 1498) Effective January 1, 2019.)

38742. The legislative body of any city may:

(a) Contract for supplying the city with water for municipal purposes.

(b) Acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of the city or its inhabitants or for irrigating purposes in the city.

(c) Use any portion of the revenues from any water works or water supply or distribution facilities, including but not limited to water works or water supply or distribution facilities acquired or constructed with funds from bonds issued under an act entitled "An act to provide for the formation of districts within municipalities for the acquisition or construction of public improvements, works and public utilities; for the issuance, sale and payment of bonds of such districts to meet the cost of such improvements; and for the acquisition or construction of such improvements," approved April 20, 1915, the Municipal Improvement District Act of 1927, an act entitled "An act to provide for the formation of districts within municipalities for the acquisition, construction or extension of water works, water systems or water distribution systems; for the issuance, sale and payment of bonds of such districts to meet the cost of such water works, water systems or water distribution systems; and for the acquisition, construction or extension of such water works, water systems or water distribution systems" approved April 26, 1935, or from general obligation bonds of the city, for the payment of principal and interest of any of such bonds or any other bonds authorized by vote of electors and issued to acquire or construct any water works or water supply or distribution facilities within the city.

(d) Enter into agreements with, and accept financial or other assistance from, the United States or a federal department or agency, for the acquisition, construction, maintenance, and operation of the city water system and the sale and distribution of water from the system.

(Amended by Stats. 1951, Ch. 1371.)

38743. A city may, pursuant to the notice, protest, and hearing procedures in Section 53753, fix, on or before the first day of July in each calendar year, an annual water service standby or immediate availability charge to be applied on an area or frontage or parcel basis, or a combination thereof, within the city to be charged to such areas to which water service is made available for any purpose by the city, whether the water service is actually used or not. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the city council may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the city council shall comply with the notice, protest, and hearing procedures in Section 53753. The city council of a city which fixes such a charge may establish schedules varying such charge according to the land uses and the degree of availability or quantity of use of such water service to the affected lands, and may restrict such charge to lands lying within one or more zones or areas of benefits established within such city. The council may not, however, fix a monthly charge in excess of ten dollars (\$10) per acre, either on an area or frontage basis, or in excess of five dollars (\$5) for a parcel or frontage of less than an acre unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5).

A city may collect the standby or availability charge by billing the charged lands on a monthly or fiscal year basis.

A city may collect the standby or availability charge as a part of the annual general county tax bill provided the city furnishes, on or before August 10, in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed together with the amount of the charge applicable to each parcel. The parcel description may be the parcel number assigned by the county assessor to the parcel.

If the city collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

38744. If any water standby charge authorized to be collected pursuant to Section 38743 remains unpaid on the first day of the month before the month in which the board of supervisors of the county in which the city is located is required by law to levy county general taxes, a 6-percent penalty shall accrue upon the amount unpaid. The amount of the unpaid standby charge, plus the penalty, shall constitute a lien upon the land for which the standby charge is unpaid and shall be collected in the same manner and at the same time as that applicable for the collection of unpaid or delinquent county general taxes. The amount of tax attributable to unpaid water standby charges, and the penalty thereon, shall be stated on the county tax bill separately from all other taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to the charges appearing on the tax bill, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the unpaid water standby charges, and any penalty thereon, relating to such property shall be transferred to the unsecured roll for collection.

On or before August 10, the city council shall furnish in writing to the board of supervisors and to the county auditor, respectively, a description of each and every parcel of land within the city upon which a standby charge remains unpaid, together with the amount of the unpaid charge, plus the penalty on each parcel of land.

(Amended by Stats. 1981, Ch. 713, Sec. 5.)

38745. Notwithstanding any other provision of law, the city council of a city may, by resolution, establish zones or areas of benefit within the city for purposes of restricting the imposition of the water service standby or immediate availability charges authorized in Section 38743 to lands within such zones according to the benefit such land derives from the immediate availability of water, whether such water is actually used or not.

Proceedings for establishment of such zones or areas of benefit by resolution of the city council shall be initiated, conducted and completed as follows:

(a) Such resolution shall:

- (1) State that a zone or area of benefit within the city is proposed to be established for the purposes enumerated in this section, and describe the boundaries of the territory proposed for inclusion in the area.
- (2) State the name proposed for the area in substantially the following form: "Water Service Zone (or Area of Benefit) No. ____."
- (3) State the type or types of services already provided or proposed to be provided within the area pursuant to this section.
- (4) Fix a time and place for a public hearing on the establishment of the area which shall be not less than 30 nor more than 60 days after the adoption of the resolution.

(b) The city council shall publish notice of the hearing in a newspaper of general circulation published in the city or if there is no newspaper published in the city then it shall be published in a newspaper of general circulation which is circulated in the area. Publication shall be complete at least seven days prior to the date of the hearing.

The notice shall:

- (1) Contain the text of the resolution.
- (2) State the time and place for the hearing.
- (3) State that at the hearing the testimony of all interested persons or taxpayers for or against the establishment of the area, the extent of the area or the furnishing of specified types of extended services will be heard.

(c) At the hearing protests against the establishment of the area, the extent of the area or the furnishing of specified types of services within the area may be made orally or in writing by any interested persons or taxpayers. Any protests pertaining to the regularity or sufficiency of the proceedings must be in writing and must clearly set forth the irregularities and defects to which objection is made. All written protests must be filed in the office of the city council on or before the time fixed for the hearing. The city council may waive any irregularities in the form or content of any written protest and at the hearing may correct minor defects in the proceedings.

Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

(Added by Stats. 1972, Ch. 102.)