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**GOVERNMENT CODE - GOV**

**TITLE 5. LOCAL AGENCIES [50001 - 57607]** ( Title 5 added by Stats. 1949, Ch. 81. )

**DIVISION 1. CITIES AND COUNTIES [50001 - 52203]** ( Division 1 added by Stats. 1949, Ch. 81. )

**PART 1. POWERS AND DUTIES COMMON TO CITIES AND COUNTIES [50001 - 51298.5]** ( Part 1 added by Stats. 1949, Ch. 81. )

**CHAPTER 1. General [50001 - 50290]** ( Chapter 1 added by Stats. 1949, Ch. 81. )

**ARTICLE 9. Abandoned Excavations [50230 - 50257]** ( Article 9 added by Stats. 1959, Ch. 1142. )

**50230.** As used in this article:

- (a) "Local agency" means a city, a city and county, or a county.
- (b) "Legislative body" means the legislative body of a local agency.
- (c) "Superintendent" means street superintendent, his assistants and deputies, or other public officer designated by the legislative body to perform the duties imposed by this article upon the superintendent.
- (d) "Abandoned excavation" means any abandoned mining shaft, pit, well, septic tank, cesspool, or other abandoned excavation dangerous to persons legally on the premises where the abandoned excavation is located or to minors under the age of 12 years; and any facilities or equipment used in connection with drilling oil, mining or exploring for minerals or diatomaceous soil which have been abandoned and which constitute a hazard endangering the safety and welfare of the people.

(Amended by Stats. 1970, Ch. 1178.)

**50231.** The legislative body may declare by resolution as public nuisances and abate all abandoned excavations located upon private property within the local agency. The resolution shall contain a statement of the facts which constitute the nuisance.

(Added by Stats. 1959, Ch. 1142.)

**50232.** The resolution shall describe the property upon which the nuisance exists by giving its lot and block number according to the official or local agency assessment map or by other means sufficient to identify the property. The legislative body may specify the type of covering, filling, fencing, or other method of abatement required in abating the nuisance.

(Amended by Stats. 1970, Ch. 1178.)

**50233.** Any number of parcels of private property may be included within one resolution.

(Added by Stats. 1959, Ch. 1142.)

**50234.** After passage of the resolution, the superintendent shall cause notices to be conspicuously posted on or in front of the property on which the nuisance exists. He shall post:

- (a) One notice to each separately owned parcel of property of not over 50 feet frontage.
- (b) Not more than two notices to any such parcel of 100 feet frontage or less.
- (c) Notices at not more than 100 feet apart if the frontage of such a parcel is greater than 100 feet.

(Added by Stats. 1959, Ch. 1142.)

**50235.** The heading of the notices shall be "Notice to abate abandoned excavation" in letters not less than one inch in height.

(Amended by Stats. 1970, Ch. 1178.)

**50236.** The notice shall be substantially in the following form:

## NOTICE TO ABATE ABANDONED EXCAVATION

Notice is hereby given that on the \_\_\_\_ day of \_\_\_\_, 19 \_\_, the (name of the legislative body) passed a resolution declaring that an abandoned excavation was located upon the property on this street in \_\_\_\_, and more particularly described in the resolution, and that it constitutes a public nuisance which must be abated (if the legislative body has specified the type of abatement required to abate the nuisance, the specification shall be set forth). Otherwise it will be abated by the (county, city, or city and county) and the cost of the abatement assessed upon the land which the abandoned excavation is located and will constitute a lien upon such land until paid. Reference is hereby made to the resolution for further particulars. A copy of said resolution is on file in the office of the (county, city, or city and county) clerk.

All property owners having any objections to the proposed abatement of the abandoned excavation are hereby notified to attend a meeting of the (name of the legislative body) of (county, city, or city and county) to be held (give date), when their objections will be heard and given due consideration.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_.

Street Superintendent

(County, City, or City and County of \_\_\_\_\_)

*(Amended by Stats. 1970, Ch. 1178.)*

**50237.** The notices shall be posted at least five days prior to the time for hearing objections by the legislative body. A copy of the written notice shall be mailed by certified mail to the owner of the property as shown on the last equalized assessment roll at least five days prior to the time set for hearing objections.

*(Added by Stats. 1959, Ch. 1142.)*

**50238.** At the time stated in the notices, the legislative body shall hear and consider all objections to the proposed abatement of the abandoned excavation. It may continue the hearing from time to time.

*(Amended by Stats. 1970, Ch. 1178.)*

**50239.** By motion or resolution at the conclusion of the hearing the legislative body shall allow or overrule any objections. At that time the legislative body acquires jurisdiction to proceed and perform the work of abating the abandoned excavation.

*(Amended by Stats. 1970, Ch. 1178.)*

**50240.** The decision of the legislative body is final.

*(Added by Stats. 1959, Ch. 1142.)*

**50241.** If objections have not been made or after the legislative body has disposed of those made, it shall order the superintendent to abate the nuisance. The order shall be made by motion or resolution.

*(Amended by Stats. 1970, Ch. 1178.)*

**50242.** The superintendent may enter upon private property to abate the nuisance.

*(Added by Stats. 1959, Ch. 1142.)*

**50243.** Before the superintendent arrives, any property owner may abate the abandoned excavation at his own expense.

*(Amended by Stats. 1970, Ch. 1178.)*

**50244.** The superintendent shall keep an account of the cost of abatement on each separate parcel of land where the work is done by him. He shall submit to the legislative body for confirmation an itemized written report showing such cost.

*(Added by Stats. 1959, Ch. 1142.)*

**50245.** A copy of the report shall be posted for at least three days prior to its submission to the legislative body on or near the chamber door of the legislative body, with a notice of the time of submission.

*(Added by Stats. 1959, Ch. 1142.)*

**50246.** At the time fixed for receiving and considering the report, the legislative body shall hear it with any objections of the property owners liable to be assessed for the abatement. It may modify the report if it is deemed necessary. The legislative body shall then confirm the report by motion or resolution.

*(Added by Stats. 1959, Ch. 1142.)*

**50247.** The cost of abatement upon each parcel of land constitutes a special assessment against that parcel. After the assessment is made and confirmed, it is a lien on the parcel. Such lien attaches upon recordation in the office of the county recorder of the county in which the property is situated of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment, 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 cost of abatement shall be transferred to the unsecured roll for collection.

*(Amended by Stats. 1973, Ch. 861.)*

**50248.** After confirmation of the report, a copy shall be given to the assessor and tax collector of the local agency, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for local agency purposes.

*(Added by Stats. 1959, Ch. 1142.)*

**50249.** If the county assessor and the tax collector assess property and collect taxes for the city, a certified copy of the report shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

*(Added by Stats. 1959, Ch. 1142.)*

**50250.** The county auditor shall enter each assessment on the county tax roll opposite the parcel of land.

*(Added by Stats. 1959, Ch. 1142.)*

**50251.** The amount of the assessment shall be collected at the time and in the manner of ordinary local agency taxes. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale provided for ordinary local agency taxes.

*(Added by Stats. 1959, Ch. 1142.)*

**50252.** As an alternative method the county tax collector in his discretion may collect the assessments without reference to the general taxes by issuing separate bills and receipts for the assessments.

*(Added by Stats. 1959, Ch. 1142.)*

**50253.** Laws relating to the levy, collection, and enforcement of county taxes apply to such special assessment taxes.

*(Added by Stats. 1959, Ch. 1142.)*

**50254.** The superintendent may receive the amount due on the abatement cost and issue receipts at any time after the confirmation of the report and until 10 days before a copy is given to the local agency assessor and tax collector, or, where a certified copy is filed with the county auditor, until August 1st following the confirmation of the report.

*(Added by Stats. 1959, Ch. 1142.)*

**50255.** The legislative body may order refunded all or part of a tax paid pursuant to this article if it finds that all or part of the tax has been erroneously levied. A tax or part shall not be refunded unless a claim is filed with the clerk of the legislative body on or before March 1st after the tax became due and payable. The claim shall be verified by the person who paid the tax, or his guardian, executor, or administrator.

*(Added by Stats. 1959, Ch. 1142.)*

**50256.** If the legislative body finds that property damage was caused by the negligence of an officer or employee of the local agency in connection with the abatement of a nuisance pursuant to this article, a claim for such damages may be paid from the general fund of the local agency.

*(Added by Stats. 1959, Ch. 1142.)*

[50257.](#) Anything contained in this article to the contrary notwithstanding, the legislative body shall not require to be filled any abandoned excavation which contains a surface area of more than one-half acre.

*(Added by Stats. 1967, Ch. 836.)*