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

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] (Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 5. Property [54000 - 54262] (Chapter 5 added by Stats. 1949, Ch. 81.)

ARTICLE 10. The Local Government Privatization Act of 1985 [54250 - 54256] (Article 10 added by Stats. 1985, Ch. 1430, Sec. 4.)

54250. The following definitions shall control the construction of this article:

- (a) "Local agency" means any city, county, city and county, special district, or county service area.
- (b) "Commission" means the Public Utilities Commission.
- (c) "Privatization project" means any wastewater or sewerage project that is owned and operated by a corporation, partnership, or natural person pursuant to a franchise, license, or service agreement with a local agency or any agency of that local agency pursuant to which services are supplied for the benefit of the local agency, its residents, or both, or any agency of the state. "Privatization project," as used in this article, includes the Santa Ana Watershed Project Authority's Arlington Basin Groundwater Desalter Project, which will treat groundwater contaminated by wastewater.
- (d) "Project" includes, but is not limited to, financing, designing, constructing, repairing, replacing, maintaining, and operating collector systems, pumping stations, treatment plants, and lateral interceptors, and outfall sewers.
- (e) "Privatizer" means any corporation, partnership, or natural person, excluding municipal corporations, which owns and operates a wastewater or sewerage project pursuant to a franchise, license, or service agreement with a local agency.

(Added by Stats. 1985, Ch. 1430, Sec. 4.)

54251. (a) A local agency may, pursuant to this article, authorize, grant, or enter into one or more exclusive or nonexclusive franchise, license, or service agreements with a privatizer for the design, ownership, financing, construction, maintenance, or operation of a privatization project.

(b) A local agency may enact any measures necessary and convenient to carry out this article.

(c) Pursuant to Section 25215.6, within a county service area, a county board of supervisors may charge a standby charge for sewer service for a privatization project pursuant to this article. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the county 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 county shall comply with the notice, protest, and hearing procedures in Section 53753.

(Amended by Stats. 2008, Ch. 158, Sec. 6. Effective January 1, 2009.)

54252. (a) In accordance with Section 10013 of the Public Utilities Code, prior to signing a proposed franchise, license, or service agreement with a local agency, a privatizer shall apply to the commission for a determination that the proposed privatization project is not a public utility within the meaning of Section 216 of the Public Utilities Code and is therefore exempt from commission regulation. The application shall include such information as the commission requires to make this determination, as well as any information needed to comply with subdivisions (d) and (e) of Section 10013 of the Public Utilities Code.

(b) A local agency may contract with the commission for any technical assistance deemed necessary to comply with Section 10013 of the Public Utilities Code and shall reimburse the commission for estimated reasonable costs. The local agency may charge the privatizer a fee to pay these costs.

(Amended by Stats. 1992, Ch. 669, Sec. 1. Effective January 1, 1993.)

54253. No proposed franchise, license, or service agreement for a privatization project pursuant to this article shall be entered into between a local agency and a privatizer unless and until all of the following occur:

(a) The local agency has selected the privatizer through a competitive procedure which is not based solely on the price offered by the privatizer.

(b) The local agency has evaluated the project's design, capacity, financial feasibility, and cost compared with other conventional financing methods, as well as other alternatives to the project and found that the project's costs will be equal to, or lower than, conventional financing.

(c) The local agency has conducted a noticed public hearing on the proposed franchise, license, or service agreement. The notice for the public hearing shall be published pursuant to Section 6062 and shall contain, at a minimum, all of the following:

(1) A statement describing the proposed privatization project, including its cost and service area.

(2) A statement of the time and place of the public hearing to be held for the purpose of hearing public comments on the proposed franchise, license, or service agreement for the privatization project.

(3) A statement of where and when the proposed franchise, license, or service agreement will be available for public inspection prior to the hearing.

(d) The local agency has adopted the contingent franchise, license, or service agreement for a privatization project by ordinance which states that it is subject to the provisions for referendum applicable to a local agency and to approval by the commission pursuant to Section 10013 of the Public Utilities Code.

(e) The local agency retains ownership over any treated effluent from the privatization project that is not consigned to an outfall sewer but is made available for commercial or agricultural use.

(f) The agreement contains provisions stating it shall be subject to the state's prevailing wage laws.

(g) The local agency has met and conferred with all affected employee organizations under whose jurisdiction the work or service proposed under the franchise, license, or service agreement would normally be performed. The local agency shall make all reasonable efforts to avoid reducing its existing work force or demoting its existing employees as a result of entering into the franchise, license, or service agreement. If any adverse impacts which are raised by either party during the meet and confer process are necessary, the local agency shall adopt by resolution detailed findings explaining the necessity for the adverse impacts.

(h) The local agency finds that the privatizer has the expertise to ensure the continued operation and maintenance of the privatization project. This expertise shall include, but not be limited to, an adequate number of personnel certified in wastewater treatment plant operations pursuant to Chapter 9 (commencing with Section 13625) of Division 7 of the Water Code.

(i) The agreement contains provisions to ensure that the privatization project is operated to meet any applicable federal or state water quality standards or other laws.

(Amended by Stats. 1992, Ch. 669, Sec. 2. Effective January 1, 1993.)

54254. A local agency's compliance with Section 54253 shall constitute compliance with Division 3 (commencing with Section 6001) of the Public Utilities Code.

(Added by Stats. 1985, Ch. 1430, Sec. 4.)

54255. (a) Any ordinance subject to referendum under Section 54253 shall be published after adoption as required by law for ordinances of the local agency generally, or, if there is no requirement applicable to the ordinance, then once pursuant to Sections 6040 to 6044, inclusive, within 15 days after the adoption of the ordinance.

(b) If a local agency does not otherwise have statutory power to enact an ordinance pursuant to Section 54253, the governing body of the local agency may introduce and enact an ordinance at any regular or adjourned regular meeting by a majority vote of all of its members. If ordinances of a local agency are not otherwise subject to referendum, then the local agency may proceed as follows:

(1) The governing body of the local agency may refer any ordinance enacted pursuant to Section 54253 to the electors of the local agency in the same manner as the board of supervisors of a county may refer county questions pursuant to Section 9140 of the Elections Code.

(2) The electors of the local agency shall have the right to petition for referendum on the ordinance in the same manner and subject to the same rules as are set forth in Sections 9141 to 9145, inclusive, of the Elections Code, except that all computations referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to comparable computations and officers of the local agency.

(c) If the governing board of a local agency is an elected board, the electors of the local agency for the purposes of this section shall be the electors of the territory entitled to vote at elections for members of the governing board or in the case of county service area, the electors within the county service area. If a local agency does not have an elected governing board, the electors residing within the boundaries of the local agency who would be qualified to vote for candidates for Governor at any gubernatorial election shall be the electors of the local agency for the purposes of this section.

(Amended by Stats. 1994, Ch. 923, Sec. 80. Effective January 1, 1995.)

54256. In the event an ordinance enacted pursuant to Section 54253 authorizing a local agency to enter into a privatization project agreement is subjected to a successful referendum election, no ordinance authorizing the local agency to enter into a franchise, license, or service agreement for the same or substantially the same purpose shall be passed by that local agency for a period of one year from the date of the referendum, repeal, or rescission.

(Added by Stats. 1985, Ch. 1430, Sec. 4.)