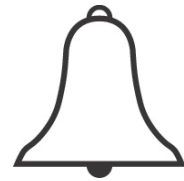


*Santa Margarita Water District*



**MEETING HANDOUT**

**Meeting:** Board Meeting

**Date:** February 7, 2018

**Item:** 6. General Counsel report



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**Memorandum**

**To:** President and Board of Directors  
Santa Margarita Water District

**From:** General Counsel

**Date:** February 7, 2018

**Re:** General Counsel Report - Board of Directors Meeting – February 7, 2018

We wanted to take this opportunity to update the District with regard to relevant new

- case law related to water use and pollution and
- legislation related to the Public Records Act, Revenue, and Conflicts of Interest.

Santa Barbara Channelkeeper v. City of San Buenaventura  
(*California Court of Appeal, First District*)

The reasonableness of a public agency's use of water must be compared to other uses.

Hawaii Wildlife Fund v. County of Maui  
(*Ninth Circuit*)

The Clean Water Act prohibits the injection of treated wastewater into wells that are hydrologically connected to waters of the United States, such as the Pacific Ocean. This decision expands the types of facilities that must have an NPDES permit to now include water agencies and others that rely on groundwater storage or that use retention basins to hold and treat water.

Public Records Act

AB 119 — Personal email addresses of public employees. The California Public Records Act exempts from public inspection the home addresses, home telephone numbers, personal cellular telephone numbers and birth dates of all employees of public agencies, but authorizes disclosure of that information under specified circumstances. This bill extends that exemption to the personal email addresses of public agency employees, unless the personal email address is used by the employee to conduct public business or is necessary to identify a person in an otherwise disclosable communication. Government Code section 6254.3, took effect in June 2017.

AB 492 — Advertising and solicitations: government documents. This measure permits a nongovernmental entity to solicit a fee for providing a copy of a public record so long as the solicitation meets specific requirements set by the parent government agency. These



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requirements include, but are not limited to: including a prescribed statement declaring that the solicitation is an advertisement and not from a government agency, listing the fee charged by the relevant state or local agency that has custody of the record, and including the necessary information to contact the state or local agency that has custody of the record. Section 17533.6.5 to the Business and Professions Code, relating to government documents.

Revenue

AB 1194 — Local bond measures: tax rate statement. This bill requires that the fiscal statement that is to be included in the sample ballot for local bond measures include the best estimate from official sources of the average annual tax rate that are required to be levied to fund the bond issue over the entire duration of the bond debt service. It also requires the estimate to identify the final fiscal year in which the tax is anticipated to be collected. Section 9401 of the Elections Code, relating to elections.

SB 231 — Local government: fees and charges. Defines and adds the term “sewer” to the provisions of articles XIII C and XIII D of the California Constitution (Proposition 218). Proposition 218 generally requires that assessments, fees and charges be adopted only after the provision of written notice to affected property owners and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Proposition 218. This bill defines the term “sewer” for these purposes. Section 53750 of the Government Code, relating to local government finance.

SB 450 — Bonds: public notice. Existing law authorizes the governing body of a public body to authorize the issuance of bonds pursuant to a resolution, indenture, agreement or other instrument providing for the issuance of bonds. Existing law defines a “public body” to mean, among other entities, a county, city, or city and county. This bill, prior to authorization of the issuance of certain bonds, requires the governing body of a public body to obtain and disclose specified information regarding the bonds in a meeting open to the public. The bill requires the information to be obtained as a good faith estimate from an underwriter, financial advisor, or private lender or from a third party borrower, if the public body issuing bonds is a conduit financing provided. Government Code section 5852.1, relating to bonds.

Conflicts of Interest

AB 187 — Political Reform Act of 1974: local ballot measure contribution and expenditure reporting. This measure adds to the Political Reform Act of 1974 the requirement that all contributions of \$5,000 or more, made by a committee in support or opposition of a local initiative or referendum ballot measure, be disclosed in a campaign report. 84204.5 of the Government Code, relating to the Political Reform Act of 1974.



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AB 551 — Political Reform Act of 1974: post-employment restrictions extended. This measure prohibits former local government officials who served as independent contractors from appearing before or communicating with their former agency for compensation. 87406.3 of the Government Code, relating to the Political Reform Act of 1974.

AB 867 — Political Reform Act of 1974. The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and related matters, including campaign contributions. The Act requires that certain “behested” payments that are made principally for legislative, governmental, or charitable purposes be reported. This bill recasts the provisions that define the term “contribution” for purposes of the Act, including provisions describing behested payments that are not contributions, and the reporting requirements for behested payments. Sections 82015 and 85400, 82004.5, 82022.5, 82041.3 and 84224 to the Government Code, relating to the Political Reform Act of 1974.

SB 45 — Political Reform Act of 1974: mass mailing prohibition. This new law codifies the portion of the Political Reform Act of 1974 that prohibits sending mass mailings at public expense. The Act defines “mass mailing” as over 200 substantially similar pieces of mail not including form letters or other mail that is sent in response to an unsolicited request, letter, or other inquiry. An existing FPPC regulation prescribes criteria for mass mailings that are prohibited by the Act and for mass mailings that are permissible under the Act. The bill also prohibits a mass mailing from being sent within the 60 days preceding an election by or on behalf of a candidate whose name will appear on the ballot. Sections 89002 and 89003 to the Government Code, relating to the Political Reform Act of 1974.

SB 226 — Political Reform Action of 1974: slate mailers by public safety personnel. The Political Reform Action of 1974 regulates a type of mass mailings known as slate mailers that support or oppose multiple candidates or ballot measures for an election. This bill requires slate mailers and mass mailings to disclose on the mailing, in a specified format, whether or not the slate mailer organization who sent them represents the public safety personnel and, if so, how many. Section 84305.7 of the Government Code, relating to the Political Reform Act of 1974.