

CALIFORNIA GOVERNMENT

75th SESSION EDITION (Rev. 01/2012)

Special Dedication to the following
California Boys State Counselors
who have served as such for more than 50 years:

Joe Cenoz

Stanley L. Dunn

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The American Legion

Department of California

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Revised 2000, 2005 - William A. Smelko - Boys State 1970

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TABLE of CONTENTS

<u>PART I INTRODUCTION TO STATE & LOCAL GOVERNMENT</u>	4
I. Formation	4
A. Treaty Government	4
B. Statehood	4
C. Capitol	4
II. The State Constitution: Amendments & Revisions	4
A. Amendment	4
1. By the Legislature	4
2. By the People	4
B. Revision	4
1. By the Legislature	4
2. By Constitutional Convention	4
III. The Federal System & Legislature	5
A. Federal Legislators	5
B. Selection-Tenure	5
1. Qualifications	5
2. Vacancies	5
a. Senator	5
b. Representative	5
IV. City-County-State Government-An Overview	5
<u>PART II CITY GOVERNMENT</u>	6
I. Incorporation	6
A. Procedure for Incorporation: The Local Agency Formation Commission	6
B. Classification of Cities	6
1. Chartered Cities	7
2. General Law Cities	7
II. Government	7
A. Legislative	7
1. City Council	7
a. Organization	7
b. Meetings	8
c. Ordinances & Resolutions	8
d. Powers	9
2. Electorate	11
a. Initiative	11
b. Referendum	12
B. Executive	12

1.	Mayor	12
2.	Clerk	12
3.	Treasurer	13
4.	Chief of Police	13
5.	Fire Chief	14
6.	Assessor	14
7.	City Attorney	14
C.	Judicial	14
III.	Elections	14
A.	Notice of Election	14
B.	Nomination of Candidates	14
C.	Polling Places & Registration	15
D.	Ballots	15
E.	Voting	16
F.	Canvassing the Vote	16
G.	Canvassing the Returns	17
IV.	Removal of Officers	18
A.	Resignation	18
B.	Recall	18
C.	Superior Court Proceedings	19

PART III COUNTY GOVERNMENT 20

I.	Corporate Entity	20
A.	Political Subdivisions of the State	20
B.	Procedure for Chartering Counties	20
C.	Unchartered Counties	21
II.	Government	21
A.	Officers-In General	21
1.	Qualifications	21
2.	Elections	21
3.	Tenure	22
4.	Compensation	22
5.	Deputies	22
6.	Vacancies	22
7.	Removal	22
a.	Resignation	22
b.	Recall	22
c.	Superior Court Proceedings	23
B.	Legislative	23
1.	Board of Supervisors	23
2.	Electorate	25
a.	Initiative	25
b.	Referendum	26
C.	Executive	26
Chair of the Board of Supervisors		26
District Attorney		27
Sheriff		27

Public Administrator	27
Coroner	28
County Clerk	28
Recorder	28
Auditor	29
Treasurer	29
Assessor	29
Tax Collector	29
Superintendent of Schools	29
Others	29
D. Judicial	29
1. Trial Courts	30
a. Judicial Districts	30
b. Officers	30
c. Small Claims	30
d. Superior Courts	30
2. Grand Jury	31
3. Law Library	31
III. Summary	31

PART IV STATE GOVERNMENT 32

I. Introduction	32
II. Government	32
A. Executive	32
1. In General	32
2. Constitutional Officers	32
Governor	32
Lieutenant Governor	33
Secretary of State	33
Controller	33
Treasurer	33
Attorney General	33
Insurance Commissioner	34
Superintendent of Public Instruction	34
3. Vacancies	34
a. Succession to Governorship	34
b. Commissions for Constitutional Officers	34
4. Commissions and Boards	35
5. Governor's Office	35
6. Agencies	35
.B. Legislative	37
1. Senate and Assembly	37
Membership	37
Qualifications	37
Selection-Tenure	37
Compensation	37
Sessions	37

Duties	37
2. Limitations on Legislative Action	37
a. General and Special Laws	38
b. Subject and Title of Bills	38
c. Legislation by Reference	38
d. English Language	38
e. Budget	38
f. Appropriations	38
g. Indebtedness	38
h. Loans and Gifts	38
i. Additional Duties	38
j. Compensation	38
k. Taxation	38
3. Enactment of Statutes	39
4. Legislative Council Bureau	40
5. Electorate	40
a. Initiative	40
b. Referendum	42
C Judicial	43
1. Supreme Court	43
a. Membership-Tenure-Compensation	43
b. Selection	43
c. Jurisdiction	44
2. Courts of Appeal	44
a. Districts	44
b. Selection-Tenure	44
c. Jurisdiction	44
3. Judicial Council	44
a. Selection-Tenure	44
b. Functions	44
c. Director	45
4. Commission on Judicial Appointments	45
5. Commission on Judicial Qualifications	45
III. Elections	45
A. Suffrage	45
B. Registration	46
C. Political Parties	47
D. Nominations	47
E. Filing Fees	48
F. Completion of the Nominating Process	48
G. Primary Election	48
H. General Election	49
I. Presidential Election	50
J. Conduct of Election	50
K. Campaign Expenses	50
1. Definitions	50
2. Campaign Statements	50
3. Time of Filing	51

	4. Place of Filing	51
	5. Certificates	51
	6. Presentment & Payment of Claims	51
	a. Candidates	51
	b. Committees	51
IV.	Removal	51
	A. Resignation	51
	B. Impeachment	51
	C. Recall	52
V.	Board of Equalization	53

CITIZENS OF CALIFORNIA

BOYS STATE:

The American Legion, Department of California welcomes you to California Boys State. To you is given the opportunity of studying the fundamentals of California government under competent supervision.

Through the Boys State program, a practical school of government sponsored annually by the American Legion, we desire to stimulate the more active and intelligent interests of the future citizens of our Country in the operation of government, and in the rights, privileges and responsibilities of citizenship.

We are proud to have you enrolled as members of California Boys State. We sincerely believe that if you will return to your home and community with a better knowledge of the practical side of our government and with an increased appreciation of the freedoms which our democratic institutions afford its citizens, the purposes of this program will have been accomplished.

SALUTE TO THE FLAG

I pledge allegiance to the flag of the United States
of America and to the Republic for which it stands,
One Nation under God, indivisible,
With liberty and justice for all.

In pledging allegiance to the Flag of the United States of America, the approved practice in schools is as follows:

Standing with the right hand over the heart, all repeat together the following pledge:

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, One Nation under God, indivisible, with liberty and justice for all.

This position is held until the end, when the hand, after the words, "Justice for all," drops to the side.

National Americanism Commission
Of The American Legion

The American Flag

By

* Calvin Coolidge

Works which endure come from the soul of the people. The mighty in their pride walk alone to destruction. The humble walk hand in hand with

Providence to immortality. Their works survive. When the people of the Colonies were defending their liberties against the might of kings, they chose their banner from the design set in the firmament through all eternity. The flags of the great empires of that day are gone, but the Stars and Stripes remain. It pictures the vision of a people whose eyes were turned to the rising dawn. It represents the hope of a father for his posterity. It was never flaunted for the glory of royalty, but to be born under it is to be a child of a king and to establish a home under it is to be the founder of a royal house. Alone of all flags it expresses the sovereignty of the people which endures when all else passes away. Speaking with their voices it has the sanctity of revelation. He who lives under it and is loyal to it is loyal to truth and justice everywhere. He who lives under it and is disloyal to it is a traitor to the human race everywhere. What could be saved if the Flag of the American nation were to perish?

** Former Honorary President General United States Flag Association.*

THE AMERICAN LEGION CREED

I BELIEVE IN THE UNITED STATES OF AMERICA AS A GOVERNMENT OF THE PEOPLE, BY THE PEOPLE, FOR THE PEOPLE WHOSE JUST POWERS ARE DERIVED FROM THE CONSENT OF THE GOVERNED; A DEMOCRACY IN A REPUBLIC; A SOVEREIGN NATION OF MANY SOVEREIGN STATES; A PERFECT UNION, ONE AND INSEPARABLE; ESTABLISHED UPON THOSE PRINCIPLES OF FREEDOM, EQUALITY, JUSTICE, AND HUMANITY FOR WHICH AMERICAN PATRIOTS SACRIFICED THEIR LIVES AND FORTUNES.

I THEREFORE BELIEVE IT IS MY DUTY TO MY COUNTRY TO LOVE IT; TO SUPPORT ITS CONSTITUTION; TO OBEY ITS LAWS; TO RESPECT ITS FLAG; AND TO DEFEND IT AGAINST ALL ENEMIES. (Authorized Version)

FOREWORD

This Manual is designed to present, in as brief a manner as possible, an outline discussion of the organization of California's State, County and City government, explaining the essential governmental structures that exist within the State. Those unfamiliar with words, terms and phrases commonly employed in any study of government should seek the definitions when the occasions may arise in order to acquire a more thorough understanding of the subject matter. You should consider the Manual as a whole because the parts thereof are so closely related and interwoven that certain components of the Manual may well be explanatory of others. Though the Manual does not reference the secondary authorities or sources of the material presented, the primary source information for the compilation was obtained from California's Constitution and State laws and statutes.

The purpose for which Boys State was organized is as follows:

► To provide citizenship training for a selected group of high school juniors, chosen for outstanding citizenship, scholarship, leadership and interest in government.

► This training affords delegates an opportunity to live together as self-governing citizens to learn about the duties, rights, privileges and responsibilities of American citizenship.

The process is designed to increase understanding and participation in the functioning of their government and to help the students grasp the meaning of some responsibilities they will assume when they reach voting age.

► The young men enrolled are citizens of a mythical state created especially for them, by them. This educational program instills into these young men a practical working knowledge of the structure of government . . . in the American way.

► The sponsorship of this program is a direct effort by the American Legion to provide our State and nation with a group of leaders who will know government and will help apply the democratic principles on which America was founded with the hope that they will stand ever ready to safeguard these principals and ideals should the need arise.

THE AMERICAN LEGION

Department of California

PART I

INTRODUCTION TO STATE & LOCAL GOVERNMENT

I. FORMATION

The history of California Government is unique among the 50 States, in that California was never a territory. Usually when land was annexed to the United States, a territorial government was established for that area, as a step preparatory to Statehood.

A. Treaty Government. California went directly from a treaty government into the Union as a State. In 1848, California was acquired from Mexico by the United States pursuant to the provisions of the Treaty of Guadalupe Hidalgo, also known as the Treaty of Queretaro. After this area was acquired, the United States established in California a military government under the supervision of Brigadier General Riley, with the seat of the government at Monterey.

B. Statehood. In the fall of 1849, a Constitutional convention convened at Monterey for the purpose of drafting and adopting a Constitution to be submitted to and approved by the people. It was then forwarded to Washington where it was approved by the U.S. Congress. On September 9, 1850, California was admitted as a State into the Federal Union.

C. The Capitol. The first Capitol of California was located at San Jose, but by legislative enactment it was subsequently moved to Vallejo, Benicia, and lastly, to Sacramento. Today, the legislature no longer possesses the power to move at will the seat of our State government. This right now resides only in the people of the State. On November 3, 1970, Article XX section 1 of the Constitution was amended to read "Sacramento is the Capitol of California."

II. THE STATE CONSTITUTION: AMENDMENTS & REVISIONS

The inadequacies and shortcomings of the 1849 Constitution, coupled with changing social, economic and political conditions, resulted in the adoption of a new Constitution in 1879. This 1879 Constitution, as amended, provides the organic law of California today. The California Constitution is not static. As time progresses, and the needs of its citizenry grow ever more complex and changed, the California Constitution may be amended or revised as follows:

A. Amendments

1. By the Legislature. An amendment may be proposed by either house (Assembly and Senate) of our State legislature. If the proposed amendment is agreed upon by 2/3rds vote in each house, it then is submitted directly to the electors of the State for their approval and ratification by a majority vote of the people.

2. By the People. The electors may amend the Constitution by initiative.

B. Revisions

1. By the Legislature. Revisions may be proposed by the legislature and acted upon by the people in the same manner as amendments may be created.

2. By Constitutional Convention. A constitutional convention for a revision may be proposed by 2/3rds vote of both houses. Such a proposal is submitted to the electorate of the State at a general election. If approved by a majority vote, then within six months the legislature must provide for the convention. Delegates to the constitutional convention are elected by the voters from districts as nearly equal in population as practicable. The revised constitution then must be submitted to the electors of the State. If approved by a majority vote of the people, the revised constitution will then take effect the day after the election unless the measure provides otherwise.

III. THE FEDERAL SYSTEM & LEGISLATURE

A. Federal Legislators. Before discussing the various branches of our State government, mention should be made of our State's participation in the National Government. California is officially represented in the Congress of the United States by Senators and Representatives:

B. Selection-Tenure. California's Congressional delegation is elected by the people. Two Senators are elected from the state at large. Representatives are selected from congressional districts based on population. The two Senators each serve a term of six years. In 2008, 53 representatives will be elected from California to serve two year terms. Population changes premised upon the federal census (which is held each decade) serve as the basis upon which the number of elected California representatives increase or decrease.

1. **Qualifications.** To be eligible for the office of Senator, a person must be at least thirty years of age, a citizen of the United States for at least nine years prior to the election, and a resident of California. To be eligible for the office of Representative, a person must be at least twenty-five years of age, a citizen of the United States for at least seven years prior to the election, and a resident of California.

2. Vacancies.

(a) Senator. Any vacancy for United States Senator must be filled at the next State election, but until that time such office is filled by the Governor's appointment.

(b) Representative. Any vacancy in a congressional district can be filled by a special election called by the Governor; otherwise, the office remains vacant until the next general election.

IV. CITY-COUNTY-STATE GOVERNMENT-AN OVERVIEW

Various state executive, legislative and judicial offices serve the people of California as a separate component part of the United States of America. Under our system of government, the

state is sovereign and supreme, yet part of a collective group of independent States. Under the Tenth Amendment to the United States Constitution, certain powers are delegated to the federal government, but all powers not delegated or prohibited by the federal constitution to the national government are reserved to the states, which are in turn, governed under state constitutions.

The people of the state, through the California Constitution and enactments of the people and of the California Legislature, have structured the government into a number of executive, legislative and executive departments. Operating under the Elections Code, the Government Code and other statutory directives, various sub-parts act as stewards of the public's trust through city, county and state governments. To understand state and local government in California, one must first become familiar with the organs of the three levels of government serving the interests of the people as public officials on the local and state government levels.

In addition to cities, counties and the state government, however, a number of regional organizations and special focus agencies and entities have been created to foster better relations and coordination among the different levels of government, and to assist government in addressing the ever expanding complexities of change that accompanies the passage of time. Regional organizations are primarily concerned with helping to improve the cooperation and coordination among local governments. Special focus agencies and districts work somewhat independently from various departments of state and local governments in order to provide valuable expertise in monitoring and facilitating the administration of services to the people of the state. Special focus entities include school, fire protection, water and hospital districts, among other public bodies, and they possess and exercise governmental and regulatory powers.

PART II CITY GOVERNMENT

I. INCORPORATION

All Californians are residents of a County under the Constitution and laws of this state. It is legally possible, however, to not be a resident of a city in California. Individuals who live in unincorporated areas are subject to the laws and ordinances of the State and County in which they reside. For most Californians, however, city or municipal governments serve as the primary point of contact with government. In fact, many "cities" pre-date California's statehood. New "cities" are created, and the geographic reach of existing cities are expanded or contracted through a specialized process known as "incorporation."

A. PROCEDURE FOR INCORPORATION: THE LOCAL AGENCY FORMATION COMMISSION ("LAFCO")

California law provides for a LAFCO in each county and prescribes its powers, duties, procedures and functions. Each LAFCO is given the power to approve or disapprove, with or without amendment, wholly or partially, consolidation proposals concerning the formation (including incorporations or annexations) of cities and special districts, and other changes in jurisdictions or organization of local governmental agencies.

LAFCOS regulate, through approval or denial, the boundary changes proposed by other public agencies or individuals. LAFCOS do not have the power to initiate boundary changes on their own, except for proposals involving the dissolution or consolidation of special districts and the merging of subsidiary districts. LAFCOS review proposals for the formation of new governmental agencies and changes of organization in existing agencies. They work with nearly 4,000 governmental agencies and more than 500 cities and 3,000 special districts. They must consider the effect that any proposal will produce on existing agricultural land or urban sprawls and they conduct studies on "Spheres of Influence" to assure that boundaries exist for the agencies to provide services to the people and property in the most efficient way.

LAFCOS are usually composed of two County Supervisors appointed by the Board of Supervisors, two City Council representatives (who must be either a council member or mayor) selected by a majority of the mayors of the cities located in the County and one public member selected by the other four members. Each category of city, County and public entity has an alternate selected in the same manner. Commission members serve four year terms. The composition of the Commission in some counties has been set by special legislation and might include a special seat on the Commission for a representative of the major city of the County.

Proposals to a LAFCO for incorporation, un-incorporation or annexation may be approved without an election if less than 25 percent of eligible voters do not protest such approval after all legal notices have been given and any required hearings have been held. The foregoing applies also to consolidations but only 20 percent of eligible voters must protest in order for an election to be required. A proposal for annexation made by individuals requires not less than 5 percent of those eligible to vote in the affected territory to protest in order to obviate an election.

If an election is required by a LAFCO, or by operation of law, regarding incorporation, the ballot will include provisions "For Incorporation" or "Against Incorporation." Proposals for the election of officers to identify the name of the city and whether or not there is to be a city manager type of government, may also be considered in the election by the eligible voters.

B. CLASSIFICATION OF CITIES.

Cities are classified either as "chartered cities," if organized under a charter, or as "general law cities" if organized under the general law.

1. Chartered Cities.

A city may provide for its own government by adopting a charter by a majority vote of its electors and by obtaining its approval without change by a majority vote of each house of the state legislature. The proposal for a charter, or for its revision, may be accomplished:

(a) By the city council adopting it and then submitting it to the electors at either a special or general election for their adoption or revision; or

(b) By calling an election to vote on whether to adopt or revise a charter and if a majority of electors vote in favor of adoption, then to select by a plurality vote 15 candidates for charter commissioners. Such election may be called either by a majority vote of the city council or by a petition signed by not less than 15 percent of the registered electors of such city. The proposed or revised charter as drafted and adopted by a majority of the charter commission is then filed with the city clerk, notice given, and submitted to the city's electors at either a special or general election. A charter may be amended or repealed by a proposal submitted by the city council or by petition signed by 15 percent of the registered electors, or both, and then submitted to the city electors at either a general or special election.

2. General Law Cities.

Practically all of the larger cities in California have the power to provide for their own organization and government because they have obtained charters to do so. Such chartered cities have more home rule because, basically, the state legislature cannot act for them except in matters of statewide concern. The organization and government of non-chartered cities (called general law cities) is provided for by the state legislature. The government of a general law city is usually vested in a five-member city council, a city clerk, a city treasurer, a chief of police, a fire chief, and such subordinate officers or employees as are provided by law (assessor, tax collector, *etc.*). As a matter of convenience, and to illustrate the most common form of city government in California, there will now be explained in the following section the organization and government of a typical general law city.

General law cities are free to increase the number of council members who serve in the city's legislative body and have authority to change the length of the terms of office. For example, in larger cities throughout the state it is not uncommon to see city councils of 7, 9 or 11 members. Some city's elect their representatives "at-large" with the entire city population serving as the electorate. Others elect the city council member by "district," a population grouping of roughly equal numbers of citizens from throughout a specified geographic area of the city. Some local governments even elect both district and at-large representatives.

Additionally, virtually all of California's cities follow two-thirds of the separation of powers model set forth in the structure of the federal government. Virtually all California cities have both a legislative and executive branch. The city council, typically, offers legislative direction, and the mayor or city manager (and subordinate officials) serve as the executive branch of local government and are charged with implementing, administrating and enforcing the laws.

The third branch of government, the judiciary, is operated at the state level through the counties. Typically, city governments appear in court through their city attorney, who may either be elected (in larger cities) or appointed (by the city council).

II. GOVERNMENT

A. Legislative.

1. City Council.

(a) Organization

ORDINARY FORM. The city council is composed of five (and maybe more) members who are elected by the city's qualified electors at the general municipal election which is customarily held in conjunction with statewide general or primary elections or as otherwise prescribed by law. In order to qualify for inclusion on the ballot, a council person must have been a resident and elector of the city for at least one year next preceding the date of the election. The council members hold office for four years, from and after the Monday next succeeding the day of their election and until their successors are elected and qualified. However, the council itself is the judge of the qualifications of its members and also of all election returns. The seat of a member on the council may become vacant upon resignation, death, or in the event that the member absents themselves without permission for sixty days from all regular council meetings. The council has the power to fill such vacancy, but if it does not do so within thirty days after the vacancy occurs, then it must call an election for the purpose of filling the vacancy until the next regular election for that office. Members receive no compensation for their services unless the electors of the city, by a majority vote, decide to so compensate them. As a practical matter, city council members in larger cities are paid an annual salary. In smaller cities, the council members may receive a *per diem* or per meeting stipend.

COMMISSION FORM. As a general rule the members of a council possess no authority as individuals in the administrative affairs of the city except when they are sitting as a council. However, the council may submit to the electors, at either a general or special election, an ordinance to divide the administration of the city into departments and to assign each council person to the head of one department, thus defining the duties, powers and responsibilities of each council member. This is known as the commission form of government. In such cases, the council members are known as commissioners and usually receive stipulated compensation for their administrative services. At such election as above referred to, a majority vote of the electors is necessary for the adoption of such an ordinance.

CITY MANAGER FORM. A council may relieve itself of much of its administrative responsibilities by submitting to the electors, at either a general or special election, an ordinance

for the purpose of establishing a city manager form of government. In such a case, a majority vote is also necessary for the adoption of the proposed ordinance. Thereafter, the city council appoints a city manager, who need not be a resident of the city. The city manager then possesses the power to appoint and dismiss certain city officers and employees with the exception of the clerk, attorney and treasurer. Either the commission or the city manager plan may be submitted directly to the people by means of the initiative process as well as by a vote of the city council.

(b) Meetings The city council may hold meetings in public and at such times as it may fix by posted ordinance or resolution, but the council must meet at least once a month. The council has the power of establishing its own rules for its proceedings. However, state law requires a majority of the council to be present at a meeting in order to constitute a quorum to transact business. State law also requires affirmative votes of at least a majority of the entire council membership for the passage of any ordinance, resolution or order for payment of money.

(c) Ordinances and Resolutions A legislative act of the council may be either in the form of a resolution or an ordinance. For most purposes, legislative enactments are made by ordinances, thus creating a distinction between ordinances and resolutions. Ordinances are generally referred to as local laws, which are rather permanent in character and operate prospectively. Resolutions embrace matters of a special or temporary character, or are mere expressions by the council of its opinion or policy in particular instances.

The council provides its own rules for the procedure to be followed in the enactment of ordinances. However, the enacting clause of such ordinances usually reads as follows, "The City Council of the City of.....does ordain as follows:....." The substance of the ordinance then follows. Upon its passage by the council the ordinance must be signed by the mayor and attested by the city clerk. While in some chartered cities the mayor is given the power to veto ordinances, in general law cities the mayor possesses no such veto power. Consequently, the signing of an ordinance by the mayor and the attestation by the city clerk are mere ministerial duties which they can be compelled to perform. Before the ordinance becomes effective, it is necessary that its contents be published to the public.

(d) Powers The city council possesses broad powers , such as:

- ▶ To pass, adopt and enact ordinances, resolutions and bylaws.
- ▶ To appoint certain city officials as the chief of police, city attorney, superintendent of streets, city engineer and assessor.
- ▶ To appoint all other subordinate city officers and employees.
- ▶ To determine the compensation of the city clerk and city treasurer and to require said officials to execute a bond in favor of the city for the faithful performance of their respective duties.
- ▶ To determine the tenure and compensation of all appointive officers and employees of the city and to require, if necessary, such officers and employees to execute bonds subject to the approval of the city clerk which are filed with the city clerk. However, the bond of the city clerk is filed with the mayor. The premiums on such bonds are paid by the city out of its general fund.
- ▶ To fill, by appointment, vacancies in the offices of the city clerk and treasurer.
- ▶ To submit to the qualified electors of the city at either a general or special election the question whether the elective officers of the city, other than the council members, should be appointed thereafter by the city council rather than be elected by the people.
- ▶ To submit, in the same manner as above, the question whether councilmen should be elected by districts rather than be elected by the city at large.
- ▶ To choose one of its members as mayor of the city.
- ▶ To determine contested elections of all city officers.
- ▶ To acquire property and to dispose of the same, all for the benefit of the city.

- ▶ To provide, either by contract or by operation of works, a water supply for the city's domestic and agricultural uses.
- ▶ To construct and maintain drains and sewers.
- ▶ To prevent and extinguish fires by providing fire engines and proper apparatus, and to establish and maintain fire limits.
- ▶ To establish and maintain bridges, streets, parks, public playgrounds, golf courses, airports, parking lots, veteran's homes, memorial halls, and civic centers.
- ▶ To contract and pay for special services and advice in financial, economic, accounting, engineering, legal, or administrative matters.
- ▶ To levy and collect as approved by electors, special taxes for public purposes (pension plans, civil defense or disaster preparedness, park and recreational facilities, utility plants and works.)
- ▶ To levy and collect an annual license for all dogs held or harbored within the city.
- ▶ To levy and collect an annual tax on real and personal property, but said tax may not exceed the sum of one dollar on each one hundred dollars of property, unless with the assent of a majority of the qualified electors of the city voting at an election for that purpose.
- ▶ To affix the rate and provide for the collection of licenses for revenue and regulation purposes on all and every kind of business authorized by law and transacted within the city.
- ▶ To improve rivers flowing through, and harbors in the city.
- ▶ To erect and maintain cemeteries and to create a cemetery trust fund so that the income from the contributions thereto may be available for the perpetual care and upkeep of designated plots.
- ▶ To acquire, own, construct, maintain and operate public utilities, such as bus lines, street railways, steam railways, spur-tracks, telephone and telegraph systems, gas and other works for the generation of light, power and heat.
- ▶ To grant franchises for public utilities such as cable television and trash service providers.
- ▶ To establish and maintain public libraries, museums, gymnasiums and baths.
- ▶ To impose fines, penalties and forfeitures for the violations of municipal ordinances. However, the imposition of a penalty by fine cannot exceed the sum of five hundred (500) dollars, and the imposition of a penalty by imprisonment cannot exceed six (6) months.
- ▶ To provide for a city jail and permit prisoners to labor on public streets within the city.
- ▶ To regulate the construction, erection, repair and alteration of buildings and materials.
- ▶ To abate, destroy or remove unsightly buildings and nuisances.
- ▶ To compel property owners, lessees or occupants to remove dirt, rubbish and weeds.
- ▶ To issue subpoenas to compel the production before the council of witnesses and documents.
- ▶ To expend money for music and its promotion, but the sum expended shall not exceed five percent of the moneys in the general fund of the city in any fiscal year.
- ▶ To use available funds for employment of the city's destitute and unemployed residents.
- ▶ To provide a pension fund for city employees.
- ▶ To establish, construct and maintain a municipal hospital and provide rules for its government.

- ▶ To prescribe detailed rules and regulations for the mode, manner and method of presentation of claims against the city. In general, however, such claims must be audited by the city council. If allowed, the mayor draws a warrant on the city treasury, which is countersigned by the city clerk, and specifies the purpose for which it is drawn and out of what fund it is to be paid.
- ▶ To pay and compromise out of a public funds *bona fide* claims against the city which are either admitted or undisputed.
- ▶ To provide for the assessment, levy and collection of taxes.
- ▶ To impose percentage penalties for tax delinquencies and for collection costs. Such taxes have the effect of a judgment against the person assessed and constitute a lien on particular property. However, personal property taxes may also be deemed a lien on the real property of the owner. These tax liens attach on the first Monday of March in each year and are enforceable by the sale of realty, subject to redemption within five years thereafter.
- ▶ To sit, commencing the first regular meeting in July in each year, as the board of equalization to rectify the assessor's returns. The assessor's list as corrected is the assessment roll for the city taxes each year and such roll must be certified to be correct and genuine by the city clerk.
- ▶ To insure against municipal liability for injuries or damages to persons or property resulting from dangerous or defective conditions of public streets, highways, buildings, parks or works.
- ▶ To incur no indebtedness exceeding in any year the income and revenue provided neither for such year nor to incur any indebtedness for public improvements which exceeds in the aggregate 15 percent of the assessed value of all real and personal property in the city. The resolution proposing such bonded indebtedness must be passed by a 2/3rds vote of all members of the city council. Then the proposal to exceed the debt limit must be submitted to the qualified electors of the city for their approval at a special election for that purpose. If thus authorized by the electorate to incur additional indebtedness, the council must provide for the collection of an annual tax to pay the current interest on such indebtedness and to create a sinking fund to pay the principle thereof on its maturity, but such maturity date shall not exceed a period of forty years from the date the indebtedness is incurred.
- ▶ To do and perform any and all other acts and things necessary and proper to carry out the above provisions.

2. Electorate.

(a) Initiative

BY THE PEOPLE. The legislative power of the city is not vested exclusively in its council but may be exercised by the city's electorate by means of either the initiative or the referendum. The power to so legislate by initiative or referendum is especially reserved to the people of any city by our State Constitution. Prior to circulating any initiative petition, the proponents must publish a notice of intention to do so, accompanied by a printed statement not exceeding five hundred words in length setting forth the reasons for the proposed measure, and signed by not more than five proponents. A copy of the notice and the accompanying statement, together with an affidavit that the same has been published, must be filed with the clerk of the city council. Following the expiration of twenty-one days after such publication, the petition proposing a particular legislative measure must be circulated among the city's qualified electors and signed by a certain percentage of them. At the time of signing the electors must also state the date of signing, their places of residence and precinct. To the petition, the person who circulated it must affix his affidavit to the effect that he witnessed the signing of the petition by the respective electors and that such signatures are genuine. The petition is then filed with the city clerk who (within thirty days) examines the sufficiency of the petition, the signatures thereon, and attaches thereto a certificate as to the results of his examination. The city council is then presented with

the petition by the clerk. If the clerk's certificate indicates insufficient valid signatures, then the proponents may file (within thirty days thereafter) a supplemental petition with additional signatures which must be checked and certified by the clerk.

If the petition requests that the ordinance be submitted to the people at a special election and if it is signed by not less than fifteen percent of the city's electors, then the city council shall either pass such ordinance as presented or shall call a special election and submit the proposition to a vote by the people not less than 60 nor more than 75 days after the date of the call. On the other hand, if the petition accompanying the proposed ordinance is not required to be submitted to the people at a special election and if said petition is signed by not less than 10% of the city's electors, then the city council shall pass such ordinance or shall submit it to a vote of the people at the next regular municipal election occurring at least 45 days later. However, at least 10 days prior to any election, sample ballots with copies of the proposed ordinance must be mailed to each registered voter within the city. Such ballots may contain statements, each not exceeding three hundred words in length, arguing in support of and in opposition to the proposed ordinance.

The enacting clause of the proposed ordinance is worded as follows: "The people of the City of.....do ordain as follows:....." The ballots used when such initiative measure is submitted to the people merely state: "Shall the ordinance (stating the nature thereof) be adopted? Yes.....No....." The electors indicate their votes by casting a ballot in the prescribed manner, formerly by stamping a cross (x) in the place following either the "yes" or "no." A majority vote is necessary to pass the ordinance in this manner. If so passed, it becomes effective ten days after the majority vote has been canvassed and declared.

No measure initiated by the people, whether to be subsequently passed either by the council or by a vote of the electorate, can be thereafter repealed or amended except by a vote of the electorate, unless, of course, the initiative ordinance itself makes provision to the contrary.

BY THE COUNCIL. Proposed ordinances may be submitted directly to the electors by the city council, acting voluntarily in the matter, without the necessity of a petition being prepared, signed and filed. Consequently, the council may submit to the people propositions for new enactments or for the repeal, amendment or modification of existing enactments. This may be at either a regular or special city election. A majority vote determines the matter.

(b) Referendum

Ordinances, except those relating to an election or to street improvement proceedings, adopted by the city council do not become effective until thirty days after their final passage. There is an exception to this rule, however, in those instances where facts are stated in the ordinance itself, setting forth the urgency of such legislation and declaring that it shall take effect immediately, in order to preserve public peace, health and safety. Such ordinances, however, must be passed by a four-fifths vote of the council.

The purpose of providing a thirty day period after the passage of an ordinance before it becomes effective is to permit the filing with the city council of a petition, signed by not less than ten percent of the city's qualified electors protesting the passage of such ordinance. In such case, the ordinance is suspended from going into operation. If the council does not thereafter entirely repeal the challenged ordinance, then the council must submit it to the voters either at a regular city election occurring at least 45 days thereafter or at a special election called for that purpose and held not less than 60 or more than 75 days later. A majority vote in favor of the proposed ordinance, as passed by the council, is necessary to put said ordinance into full force and effect.

B. Executive.

1. Mayor.

SELECTION. The mayor is typically one of the members of the city council and is frequently elected/appointed by the council to serve as its chair. Consequently, a city mayor selected through this method is nothing more than the chair of the council serving as mayor at the pleasure of his fellow members composing the city council. The mayor, being a council person, serves without compensation or receives such compensation as the council or the electors decide.

DUTIES. Some of the more important duties of the mayor include:

- ▶ To preside at all city council meetings, but if absent the council may appoint a mayor pro tem.
- ▶ To sign all ordinances passed by the council.
- ▶ To appoint a council member as a clerk *pro tem* in the absence of the city clerk or deputy.
- ▶ To make or second any motion and to present or discuss any matters.
- ▶ To sign all warrants drawn on the city treasury.
- ▶ To sign all written contracts and conveyances on behalf of the city.
- ▶ To administer oaths, take affidavits and acknowledge execution of official city instruments.

2. Clerk.

SELECTION. The city clerk is elected by the city's qualified electors at the general municipal election. The clerk holds office for four years from and after the Monday succeeding the day following the election and until a successor is elected and qualified. In order to qualify for the office, a person must have been a city resident and elector for one year preceding the day of the election. The clerk's compensation is fixed by the city council; but having once been fixed; such compensation cannot thereafter be increased or diminished during the term of office of that particular incumbent.

DUTIES Some of the more important duties of the city clerk are:

- ▶ To keep a record in a journal of the city council's proceedings, as well as to keep a separate record of the proceedings when that body sits as a board of equalization. For these purposes the clerk must keep separate books bearing appropriate titles thereon and with a general index thereto. These books must be used exclusively for their respective purposes.
- ▶ To keep as the chief accounting officer of the city, all financial records and to prepare at the end of each fiscal year a summary statement of all receipts and disbursements by departments, including the opening and closing balances in the city treasury. This statement must be published by the clerk and presented to the city council and the State Controller.
- ▶ To keep a book marked "ordinances" in which are kept all city ordinances, and to each ordinance the clerk must attach a certificate stating that the same is a true and correct copy of the ordinance, giving the number of the ordinance and stating further that the same has been published according to law.
- ▶ To act as the city's *ex officio* assessor, unless the council appoints an officer for such purpose.
- ▶ To be the custodian of the city seal.
- ▶ To issue licenses.
- ▶ To appoint deputies.
- ▶ To administer oaths and take affidavits.
- ▶ To aid in the performance of the city's official business.

3. Treasurer.

SELECTION The city treasurer is elected by the city's qualified electors at the general municipal election and holds office for four years from and after the Monday succeeding the day of election and until a successor is elected and qualified. In order to qualify for city treasurer, a person must have been a city resident and elector for 30 days before the day of filing. The city

treasurer's compensation is fixed by the city council, but having once been fixed; such compensation cannot be increased or diminished during the term of office of the incumbent.

DUTIES Some of the more important duties of the city treasurer are:

- ▶ To receive, keep, deposit and secure all public funds and moneys.
- ▶ To pay out moneys on warrants signed by persons authorized by law.
- ▶ To submit to the city clerk each month a written report and an account of all receipts, disbursements and fund balances, and to file a copy of said report with the city council.
- ▶ To perform duties relative to taxes and license fees collections as prescribed by ordinance.
- ▶ To appoint deputies.

4. Chief of Police.

SELECTION The police chief is appointed by the city council and holds office at its pleasure. The council determines the chief's compensation.

DUTIES Some of the more important duties of the police chief are:

- ▶ To suppress riots, disturbances of the peace and resistance to laws or public authorities.
- ▶ To require deputies, police officers and citizens to execute orders, if or whenever a citizen is required to lend aid for the arrest of offenders or to maintain peace.
- ▶ To execute and return all processes issued and directed to the chief and to receive fees.
- ▶ To have charge of the city prison or jail.
- ▶ To perform any license fee and tax collection services prescribed by ordinance.
- ▶ To keep a record of all fees received and other moneys collected by the police department in its official capacity and to deposit said moneys with the city treasurer.
- ▶ To file with the city clerk a detailed monthly statement of all moneys handled by the police department.
- ▶ To appoint, subject to the council's approval, police officers; but in emergencies the chief of police, acting only in concurrence with the mayor, may appoint additional police officers.

5. Fire Chief.

SELECTION The fire chief is appointed by the city council and holds office at its pleasure.

DUTIES Some of the more important duties of the fire chief are:

- ▶ To maintain and supervise adequate fire fighting facilities.
- ▶ To supervise the training of fire fighting personnel.
- ▶ To act as fire marshal.
- ▶ To enforce all safety measures and city ordinances pertaining to fire hazards.
- ▶ To budget and submit to the council all fire department expenditures.

6. Assessor.

SELECTION The assessor is appointed by the city council and holds office at its pleasure.

DUTIES Some of the more important duties of the assessor are:

- ▶ To prepare, between the first Monday of March and the first day of July in each year, a verified list of all taxable property within the city.
- ▶ To state on said list a specific description of the taxable property assessed and its value.
- ▶ To deposit said list with the city clerk on or before the first day of July in each year.
- ▶ To administer oaths necessary in the performance of the assessor's duties.

7. City Attorney.

SELECTION Typically, the city attorney is appointed by the city council and holds office at its pleasure. The council determines this officer's compensation. In certain instances, the city attorney is separately elected by the city's qualified electors.

DUTIES Some of the more important duties of the city attorney are:

- ▶ To advise city authorities and officers about all legal matters concerning municipal business.

- ▶ To frame ordinances, resolutions and by-laws as required by the city council.
- ▶ To defend the city in all actions, suits or proceedings brought in the name of the city, against the city or on its behalf and to prosecute in the court all violations of municipal ordinances.
- ▶ To perform such additional legal services as the city council may require and request.

C. Judicial.

General law cities as such do not have an independent court system. However, the people in a city are served by the court structure of the county. These courts are described in Section II of this Manual pertaining to County Government.

III. ELECTIONS.

A. Notice of Election.

Not earlier than the 75th nor later than the 54th day before any election, either special or general, the city clerk must publish a “notice of election,” setting forth the date and hours of the election, and the offices to be filled.

B. Nomination of Candidates.

Candidates for the various offices to be filled in any particular election are nominated by a nomination paper containing the signatures of not less than five and not more than ten qualified electors in a city of less than 100,000 registered voters. Only one candidate may be named in any nomination paper and no elector can sign more than one nomination paper for any particular office. However, each seat on the city council is deemed a separate office. At the time an elector signs a nomination paper they must also state their place of residence, precinct and the date of signing. The person who circulates the nomination paper for these signatures must thereafter affix to it a certificate to the effect that they witnessed the signing of the petition by the respective electors and that said signatures are genuine. Any person registered to vote at the election may circulate a nomination paper.

To the nomination paper there must be attached a statement, verified by the proposed candidate, that the nominees will accept the nomination, and further, that if elected, they will accept the office. These papers are then filed with the city clerk, or more typically, with the Registrar of Voters, who must compile a list of the names of the proposed nominees (in the order in which they appear on the ballot) for the respective offices. This list of nominees for public office must be published by the clerk or the registrar. If the election is being held for the purpose of submitting to the electors any question or proposition, notice of the same must be given by the clerk. This notice must be published twice (*i.e.*, once a week for two successive weeks) and the notice must contain a synopsis of the question or proposition.

Typically, the County Registrar of Voters will perform all required city election procedures. The city or the other government agencies (*e.g.*, school district) involved in the election process will pay a fee to the County Registrar of Voters for this purpose.

C. Polling Places & Registration.

A “precinct” is a territorial division created for certain political administrative purposes, but, for the most part, is a simply a voting territory in a part of the city designated for the convenience of the people. In each precinct there is one place for the electors to cast their votes and this is known as the polling place. The city council (typically the County Registrar of Voters) must appoint election officers to be in each of these polling places at the time of the election. The election officers usually consist of one inspector, one judge and two clerks. It is the duty of the city clerk (or Registrar) to provide voting booths (screened from observation), ballots, ballot boxes, stamps, ink pads, voting lists, rosters, instructions cards, affidavits of registration and index thereto, tally lists, returns and envelopes, and all other necessary election supplies, and to have displayed an American Flag. The names of the election officers and the

designated polling place in each precinct must be published by the city clerk or the Registrar at least 20 days prior to the election. In addition, sample ballots and polling place cards must be printed and mailed to each voter so that the mailing is completed not later than 10 days before the election.

In order to vote, a person must register with the Registrar. Registration must take place at least 30 days before an election in order to qualify the person to vote in a particular election. Registration includes identifying the name, residence address and, party of choice (or non-partisan affiliation) of the individual registering to vote. Every time a person moves their residential address or wishes to change party affiliation the person must re-register to vote. A person may be registered in only one precinct and may cast only one ballot in any election.

D. Ballots.

The names of the candidates are to be printed in randomized alphabetical order as determined by the Secretary of State in a public drawing on prescribed dates. Blank spaces must be left below the list of names so that the names of nominees may be written in, if desired. At the heading of each group of candidates are to be placed statements designating the respective office and the number of candidates to be voted on for said office. To the right of each candidate's name there must be a square, or box, in which the voter is to punch the ballot or otherwise mark or stamp a cross (x) to cast a ballot for that candidate. If a candidate's name is not on a ballot, then any voter may write the name in the blank space below the other names and must also punch or mark the ballot, as appropriate.

At the top of the ballot instructions must be printed informing voters how to cast votes by using a punch card, making a cross (x) after the name of the desired candidate or correctly inputting the proper vote on a computerized ballot. Further, the instructions must apprise the voters that a ballot is void if there are any distinguishing marks or erasures thereon or if the ballot is wrongfully stamped, torn or defaced. In such cases, the voter should secure another ballot from the inspector. Paper ballots must be printed on tinted paper containing water-marked design, perforated, padded and numbered. The ballots are then bound in stub books so that each book consists of ten ballots or some multiple of ten. A record of the number of ballots must be kept by the city clerk or Registrar of Voters.

E. Voting.

Before opening the polls, election officers must sign a declaration, to be filed with the city clerk or Registrar that they will faithfully perform the duties imposed by law upon them. The election officers must post near the polling place copies of the index to the book of affidavits of registration for that precinct. At the hour stated in the notice of election, the polls are opened by the election officers, proclaiming aloud that the polls are open. The election officials shall then publicly exhibit and close the ballot box which must be left closed and in sight of the electors at the polling place until the polls have been closed. The polls are closed in the same manner as they are opened, namely, by the election officers proclaiming aloud that the polls are closed.

If a person is a duly registered and qualified elector, having filed an original affidavit of registration and if such person has resided in the city for at least 30 days prior to the particular election, the elector may come to the polls. One of the election clerks will request the elector to write the correct name and address in a roster or register. At that time, any person may challenge the voter's right to vote, and if a challenge is interposed then the election judge must make a ruling upon its validity. If an elector is not challenged, or if a challenge is overruled, then the elector receives a ballot after its number has been entered on the register. The elector then enters the voting booth for the purpose of casting the vote by properly punching or stamping the ballot. Before leaving the voting booth, the voter must fold the ballot so that only the number is visible.

The voter then leaves the booth and hands the ballot to the election inspector who, in turn, enters the name of the voter and the number of the ballot. A clerk then marks “voted” after the number of the ballot, which has been previously entered upon the register. The number is then torn off the ballot by the inspector, handed to the voter, and the ballot is deposited in the ballot box.

Duly registered electors may also cast “absentee ballots” with the Registrar of Voters. In our increasingly mobile society, certain citizens may find it difficult or impossible to be home to vote in their precinct on Election Day. In addition, some citizens who have limited mobility or who may not have transportation available may need to cast their ballots by mail, or at the Registrar of Voters office. These absentee or mail ballots must arrive at the Registrar’s office before Election Day arrives. Thus, if you know you are likely to be out of town on Election Day (such as being away at college or being stationed abroad while serving in the military), you should seek, obtain and timely cast your “absentee ballot” well before Election Day.

F. Canvassing the Vote.

After the polls have been closed and before the ballot box is opened, the election officials must deface all unused and spoiled ballots. These defaced ballots must then be placed in an envelope and sealed. Thereafter, the election officials proceed to canvass the votes cast. The act of canvassing the votes must be public and must be continuous until completed and the result declared. Typically, the Registrar of Voters will provide controlled opportunities for public access and media involvement in the ballot-counting and result-posting process.

Even before the advent of punch card ballots, all the ballots in the ballot box were first counted so as to compare the number therein with the number of votes cast. If there are more ballots in the ballot box than there were votes cast, the excess number were withdrawn at random and destroyed, but a record was kept of the number removed. Having done this, the election officials then signed the roster list.

Before electronic tabulation methods were employed, and where such measures are not now available, the ballots were opened by election officials who counted votes cast for each candidate. To do this, two clerks write down on separate sheets of paper the names of the candidates and the respective offices which each sought. As ballots are read aloud the clerks keep track of the number of votes cast by making tallies with either ink or indelible pencil. As each ballot is counted it must be strung on a string by one of the election officials. After the ballots are all counted, they are sealed in an envelope and each of the election officials must write their name across the seal on the envelope. More recently, however, votes are counted by tabulation machines, and the results are cross-checked manually, if questions arise.

The number of votes cast for each candidate is then written at full length following the name. Each of the clerks must initial their own tally list and the election officials must sign the tally lists, which are then attached to the register lists. Meanwhile, one election official must post on the outside of the polling place a copy of the final results of the votes cast and that copy of the results must also have been signed by the election officials.

These officials, or more typically, the Registrar, then must deliver to the city clerk a signed copy of the results of the votes cast, together with the certificates of registration, the register of voters, the tally lists, and the election supplies. All members of the election board must sign a certificate of performance upon completion of their duties. Formal final tallies from the Registrar are certified by the Registrar and communicated to the city clerk or Secretary of State.

G. Canvassing the Returns.

On the first Tuesday after the date of the election the city council must meet and canvass the returns of the election. To do this the council passes a resolution reciting the fact of the election and the names of the persons receiving the highest number of votes, as certified by the Registrar

or other election official, for each of the respective offices. The city clerk then enters in the records of the Council's proceedings the following information:

- (1) The whole number of votes cast in the city.
- (2) The names of the persons voted for.
- (3) The measure voted upon.
- (4) For which office each person was voted.
- (5) The number of votes given by precinct to each person and for and against each measure.
- (6) The number of votes given in the city to each person and for and against each measure.

Having done this, the city clerk proceeds to make out and deliver to each elected officer a certificate of election is signed and sealed by the clerk. At this time, the clerk receives and takes from the new officers an oath of office. This oath is substantially in the following form:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

These officers are then installed by the city council. As to all other matters pertaining to municipal elections, the general election laws of the State govern. As a matter of practical concern and actual practice, modern municipal elections are typically run by the County Registrar of Voters in conjunction with general or special elections that also involve State or national offices and issues. To achieve uniformity in the manner in which the elections process goes forward, Registrars have developed sophisticated methods to insure accuracy and honesty in the elections process.

Tabulation of ballots. The costs of conducting elections are proportionately charged by the Registrar to the municipalities, school districts, fire-protection districts or water districts which also participate in the process. In this way, economies of scale can lower the costs being charged to the taxpayers and greater reliability can be achieved. As modern methods of communication evolve (e-mail, internet, *etc.*), new techniques for encouraging voter participation and ballot collection, counting and processing will likely be employed in the future.

One of the single most valuable "rights" possessed by U.S. citizens is the right to vote. Central to the enforcement of that right is exercising the privilege by registering to vote in a timely manner, participating in the election process by showing up to vote and timely casting a ballot for the candidate or measure of your choice. The right to vote is also a privilege, in that certain people can lose their franchise by becoming convicted of a felony, for instance, or by renouncing their U.S. citizenship. Exercising the right to vote requires you to participate in the elections process and participation requires that you learn and understand the technical requirements of becoming a voter when you turn 18 years of age.

IV. REMOVAL OF OFFICERS.

A. Resignation.

Any city officer, whether appointed or elected, may resign by presenting the resignation in writing and delivering the same to the city clerk acting as the *ex officio* clerk of the city council.

B. Recall.

The State Constitution reserves to the city's electors the power to remove or recall any elective municipal officer, providing that said officer has held office for at least six months and that no previous recall proceedings have been instituted within the preceding six months. Only one recall election is necessary to remove one or more city officials. However, a separate

petition is necessary to propose the recall of each officer. The recall petition must be signed by at least 10 percent of the registered voters of a city.

Before circulating such a petition for signatures, the proponents of the recall proceeding must publish a notice of their intent to so circulate such a petition. The published notice must be signed by at least 10 percent of the proponents and must also contain a statement, of not more than five hundred words, stating further the reasons for the proposed recall. In addition to publication it is necessary that a copy of said notice, together with a copy of the statement be either personally delivered or mailed to the officer to be recalled. An affidavit that this requirement has been complied with must be filed with the city clerk. This gives the officer to be recalled or anyone on the officer's behalf, an opportunity to publish an answer, not exceeding five hundred words, in response to the statement of the recall proponents.

The petition, which is to be circulated among the city's qualified electors for the purpose of obtaining the required number of signatures, must contain a copy of the notice of an intention to institute recall proceedings, a statement of the reasons for the same, together with the answer of the official whose recall is sought. If such an official has not answered, then the petition must so state. Each elector who signs the petition must add following the signature, the place of residence, precinct and the date the petition is signed. To this petition must be attached an affidavit by the person who circulated the same to the effect that the circulator witnessed the electors as they signed the petition and that, on the best information and belief, said signatures are genuine. The recall petition is then filed with the city clerk who proceeds to examine it as to the genuineness of the signatures and the sufficiency of the number thereof. The results of the clerk's examination are stated in a certificate affixed to the petition and it is then submitted to the city council. If the signatures are insufficient, the proponents may file within 30 days a supplemental petition with additional names. If the clerk is the officer being recalled, then the clerk must notify the city council to that effect so that the latter may appoint someone to perform the various duties of the city clerk incident to the recall proceedings.

The council then proceeds to submit the question of recall to the qualified electors of the city at either a special or general election. However, if it be at a general election, it is necessary that separate ballots be used. The ballot used at an election for recall of a city officer is substantially in the following form:

“Shall. be recalled from the office of. ? Yes.
. No. “

To indicate their votes the electors punch their ballots or place a cross or mark (x) in the proper blank spaces. Under the question of recall on the ballot there must be printed the names of those persons nominated to succeed the incumbent if the recall is successful.

The votes are canvassed on the first Tuesday after the election. Unless a person votes on the question of recall the vote for a candidate cannot be counted. The recall fails if a majority or exactly half of those voting on the recall vote “no.” If a majority votes “Aye,” then the officer is recalled and the nominated candidate receiving a plurality is elected for the unexpired term of the recalled incumbent.

C. Superior Court Proceedings.

In addition to removal by recall, the Superior Court of each County possesses jurisdiction to remove county, district, or city officials, whether appointed or elected, whenever a written accusation has been presented by the grand jury (concurring in by at least 12 jurors) charging in ordinary and concise language a particular officer with willful or corrupt misconduct in office.

This written accusation is delivered by the foreperson of the grand jury to the district attorney, who has a copy of the same served upon the particular officer sought to be removed.

The latter then has ten days within which to answer to the accusation. Upon service of said accusation the original thereof is filed with the Superior Court clerk and, likewise, the officer's answer is filed in the same place. Such officer is then considered as a defendant. If the challenged official fails to appear in court, the court has jurisdiction, nevertheless, to proceed with the case. However, the defendant can interpose a written objection as to the legal sufficiency of the accusation or, either orally or in writing, with or without oath, may deny the accusation. Entitled to a regular jury trial, the same as if indicted, the official is then tried in Superior Court proceedings. If convicted, the judgment then operates to remove the defendant from the particular office. The judgment of conviction, as well as the causes of removal assigned therefore, must be written in the minutes of the court. As in other cases, the defendant is entitled to appeal from the judgment of conviction.

PART III COUNTY GOVERNMENT

I. CORPORATE ENTITY.

A. Political Subdivisions of the State.

CREATION The State is divided into counties, which are the largest political subdivisions of the State, having corporate and political powers. Names, boundaries and territorial subdivisions of California's fifty-eight counties are declared by the State legislature. County formation, consolidation, and boundary changes are prescribed by the State legislature. Any boundary change requires Board of Supervisor approval for each affected county. Formation or consolidation requires approval by a majority of the county's electors.

COUNTY SEAT The county seat is the center of county government. County seat locations are originally declared by the State legislature. However, once established, a county seat cannot be changed without the approval of two-thirds of the county electors voting on such a proposition at a general election. Further, a proposition to remove a county seat cannot be submitted to the electors more than once in every four years.

CORPORATE INCIDENTS. As a corporate political body, a county has the power to sue and be sued; to purchase, receive, hold, manage and dispose of property within its limits; to make contracts and conveyances; to levy and collect taxes and to make and enforce within its limits, local, political, sanitary and other regulations which do not conflict with statewide matters. Under some circumstances, the county may agree with a city within the county to perform and discharge certain specified municipal functions (usually police or fire protection).

CLASSIFICATION. The government and organization of counties are provided for by general and uniform laws enacted by the legislature. To facilitate the enactment of such legislation, counties have been classified according to their population. Fifty-eight classes were established so as a practical matter there is only one county falling within each class. In this manner the State legislature adopts separate legislation with reference to the needs, requirements, and conditions existing and prevailing in each of the fifty-eight counties. Consequently, the people of this State, within any particular area, may be subjected to the county government regulation without any steps being undertaken on the part of the citizenry. But the people of a county can relieve themselves, to a great extent, from the control of the State legislature in local matters, by adopting a charter and thus acquiring a greater freedom in home rule.

B. Procedure for Chartering Counties.

PROPOSAL. Any county may frame a charter to provide for its own government or organization by a majority vote of the Board of Supervisors or by a petition filed with the county clerk and signed by at least 15% of county electors, based upon the total number of votes cast in the county for all gubernatorial candidates at the last general election.

COMMISSIONERS. Thereafter, at either a general or a special election, if a majority vote to elect a charter commission, then 15 charter commissioners are elected. Such candidates are nominated in basically the same manner as the general law provides for nomination of candidates for County offices. Following their election, the commissioners prepare and propose, by a majority vote, a charter signed in duplicate by the commissioners. One copy is filed with the county clerk and the other in the county recorder's office.

ALTERNATE PROCEDURE. The Board of Supervisors may prepare and propose a charter. In such event a charter commission is not required. Regardless of how a charter is prepared or proposed, the procedure for passage is the same.

PASSAGE. The Board of Supervisors causes the proposed charter to be published and then submits, at either a general or special election, the proposed charter to county electors for their adoption or rejection. If adopted by majority vote, the proposed charter is then presented to the State legislature. Upon passing a concurrent resolution by majority vote of the State legislature the county finally becomes chartered. One copy of the charter is filed with the Secretary of State and another copy, after being recorded by the county recorder is filed with the county clerk.

REVISION. A charter may be amended, revised, or repealed in substantially the same manner as adopted.

C. Unchartered Counties.

Some larger counties, in the manner outlined above, have obtained charters. A number of smaller counties have not yet taken advantage of this opportunity for home rule; and consequently, their organization and government is determined by the State legislature. The general laws of the state are applicable to the government and organization of un-chartered counties. In certain situations and under particular conditions city and county governments can be merged and consolidated into one municipal government. San Francisco is the only area which so far has availed itself of such a privilege.

II. GOVERNMENT.

A. Officers-In General.

The State Constitution confers on the State Legislature the authority to provide for county powers and an elected governing body as a well as providing for other officers, their selection, compensation, and tenure. County officers include: members of the Board of Supervisors, district attorney, sheriff, county clerk, controller, auditor (who is the *ex officio* controller), treasurer, recorder, license collector, tax collector (who is the *ex officio* license collector), assessor, superintendent of schools, public administrator, coroner, surveyor, livestock inspector, fish and game warden, librarian, health officer, administrative officer, director of finance, and such other officers as may be provided for by law (veterinarian, fire wardens, county counsel). By ordinance the Board of Supervisors may consolidate the duties of certain of these offices in one or more authorized combinations (clerk and recorder, treasurer and tax collector, district attorney and public administrator, sheriff and coroner, road commissioner and surveyor, or agricultural commissioner and county sealer of weights and measures). The people elect the following county officers: Members of the Board of Supervisors, district attorney, sheriff, clerk, recorder, treasurer, tax collector, auditor, assessor, public administrator, and coroner. The remaining officers are appointed by the Board of Supervisors. Superior Court judges are elected in the county in which they sit, although they are State judicial officers.

1. Qualifications. To qualify for a county office a person, at the time of election, must be at least eighteen years of age, a citizen of California and an elector of the particular county or district in which the duties of the respective office are to be exercised.

These general qualifications apply to all county and district officers. However, for certain particular offices, additional qualifications are required for eligibility. A district attorney must be admitted to practice law before California Supreme Court and the county livestock inspector must be a veterinary surgeon. Likewise, a supervisor elected from a district must be an elector residing within said district for at least 30 days preceding filing of nomination papers.

2. Elections. All elective county and district officers are elected on a non-partisan basis at the same general election at which the Governor is elected. State election laws applicable to county elections are discussed in section III of this Manual pertaining to State Government.

3. Tenure. All elective county and district officers take office at noon on the First Monday after the first day of January succeeding their election and hold office for the term of four years and until their successors are elected or appointed and qualified. Appointed officers serve at the Board of Supervisor's pleasure except in a few instances where the law prescribes a fixed term.

4. Compensation. The compensation of all elected and appointed county officers (including supervisors) and employees is regulated and fixed by the Board of Supervisors in their respective counties. Compensation of an elected official cannot be increased after election during the term of office. Fees collected by the county are usually fixed by the State Legislature and must be paid into the county treasury.

5. Deputies. The Board of Supervisors regulates the number, method of appointment, terms of office or employment and compensation of all deputies, assistants and county employees.

6. Vacancies. A vacancy in any appointed or elected county or district office is filled by the Board of Supervisors with the exception of vacancies for Superior Court Judge or Board member. In the latter two instances, vacancies are filled by appointment by the Governor.

7. Removal. Any county or district officer may be removed from office by resignation, recall, or Superior Court proceedings.

(a) **Resignation.** Any county or district officer, appointed or elected, may resign by presenting a resignation in writing and delivering the same to the county clerk acting as *ex officio* clerk of the Board of Supervisors.

(b) **Recall.** The State Constitution reserves to county electors the power to remove or recall any elected county or district officer, providing the officer has held office for at least six months. Only one recall election is necessary to remove one or more official. However, a separate petition is necessary to propose the recall of each official. The recall petition must be signed by qualified electors of the county equaling in number at least twenty percent of the entire number of votes cast, within such county or district for all candidates for the particular office concerned at the last general election.

In order to obtain the desired number of signatures, a petition containing a statement (not over 200 words) of the grounds on which the removal or recall is sought, is circulated among the qualified electors of the county or district. Each elector who signs the petition must add following the signature, the date of signing, the place of residence and precinct. To this must be attached an affidavit by the person who circulated the same, to the effect that the person witnessed the electors as they signed the petition and that to the best of the person's information and belief, the signatures are genuine. The recall petition is then filed with the county clerk who proceeds to examine it as to the genuineness of the signatures and the sufficiency of the number. The results of the clerk's examination are stated in a certificate affixed to the petition which is then submitted to the Board of Supervisors. This body then proceeds, without delay, to submit

the question of recall to the county or district at either a general or special election. At the recall election qualified electors must vote for their candidate to succeed the incumbent, in case the incumbent is removed from office by the recall election. Candidates are nominated by filing with the county clerk a nomination paper signed by electors residing within the county or district equaling in number at least 5% of the entire number of votes cast at the last general election at which the particular office was filled. A sample ballot is then prepared, printed and distributed to the qualified electors of a County or district. Also printed on the sample ballot is not more than two hundred words establishing reasons why the recall of the particular officer is demanded; and in addition, in not more than two hundred words, the officer's statement attempting to justify the officer's continuance in office.

The ballot used at an election for the recall of a county or district officer is substantially in the following form: "Shall be recalled from the office of
. ? Yes No" Under this question are printed the names of the persons who have been nominated as candidates to succeed the person now in office, if removed by the recall election. However, the person whom the people are seeking to recall cannot also be named as a candidate on the ballot to succeed the incumbent up for removal. A person must indicate the vote by punching the ballot or by stamping a cross (x) in the blank space following either the "Aye" or "No." If the voter fails to do so, then the vote, if any, cast for any of the proposed candidates for the office cannot be counted.

If a majority votes in favor of the recall of the incumbent from office, then the proposed candidate who has received the highest number of votes for the office is declared elected for the remainder of the term.

(c) Superior Court Proceedings. In addition to removal by recall or by resignation, the Superior Court of each County possesses jurisdiction to remove county or district officers, whether elected or appointed. Such proceedings are identical to the removal of officials by the Superior Court as described in section I of this Manual pertaining to City Government.

B. Legislative.

1. Board of Supervisors.

CONSTITUENCY. The board, typically consisting of five members, not more than three of whom shall be elected at the same time, constitutes the legislative body of a county. While a majority of board members is sufficient to constitute a quorum to transact business, nevertheless, no act of the board is valid or binding unless a majority of all the board members concurs.

MEETINGS. The board must elect one member as chair. The board must also hold regular meetings over which the chair presides. A fair statement of proceedings must be published within ten days after each session. A special meeting may be called by the chair or by a majority of board members. However, 24 hours notice of the time, place and purpose of the special meeting must be given to the members as well as to the public and news media. Under California's Brown Act, all board meetings must be public except "executive sessions" which are closed to the public for the consideration of litigation or personnel matters.

RECORDS. The board must keep the following records:

- ▶ A Minute Book in which is entered the daily proceedings, orders and decisions of all regular and special meetings.
- ▶ An Allowance Book in which is listed all orders for the payment of money from the county treasury. The list must indicate to whom the payment is to be made and on what account. Further, such orders must be dated, numbered and indexed.

▶ A Warrant Book in which is entered all warrants and checks drawn on the county treasury with a notation as to the date, amount, on what account, and the name of the payee. While this book is nominally kept by the board it is physically kept in the custody of the county auditor.

▶ An Ordinance Book in which all ordinances passed by the board are entered. All records and minutes of the board must be signed by its chair and attested by its clerk. Further, all records, books and accounts of the board must be kept at the office of its clerk and remain open at all times for public inspection. The county clerk is *ex-officio* clerk of the board of supervisors.

ORDINANCES. The enacting clause of all ordinances passed by the board reads: “The Board of Supervisors of the County of do ordain as follows . . .” The substance of the ordinance follows the enacting clause, and at the end of the ordinance, it must be signed by the board chair and be attested by the clerk. After passage of an ordinance, the clerk must enter in the minute book the votes of the respective board members on the particular measure, and then must enter the ordinance at length in the ordinance book. Thereafter the ordinance must be published once, with the names of the members voting for and against the ordinance, before the expiration of 15 days after its passage. An ordinance usually does not become effective until 30 days after its passage.

POWERS. The board possesses powers which are rather broad in scope, among which the more important are:

▶ To make and enforce rules and regulations for board governance, preservation of order and the transaction of business.

▶ To adopt a seal for the board and to file in the office of the county clerk and Secretary of State a description and impression of said seal.

▶ To administer oaths, by any member of the board, when necessary to perform official duties.

▶ To prescribe the amount in which elected county or township officers must execute of official bonds for the faithful performance of their duties. A Superior Court judge prescribes the amount of the official bonds to be executed by board members. All bonds must be approved by the Superior Court judge, recorded in the county recorder’s office, and then filed with the county clerk. The bond of a county clerk is filed with the county treasurer.

▶ To supervise the official conduct of all county and township officers; especially to examine and audit the records and accounts of all those officers charged with the duty of assessing, collecting, keeping, managing or disbursing public revenues.

▶ To levy taxes, upon the taxable property within the county, for all county purposes.

▶ To act as board of equalization, so as to equalize and adjust the assessments, based upon the valuation of property, as previously determined by the County assessor.

▶ To appropriate and expend money for flood control, conservation of flood waters and re-forestation.

▶ To advertise and exhibit county resources.

▶ To encourage the planting of shade and ornamental trees.

▶ To grant franchises and licenses for roads, bridges, ferries and wharves.

▶ To divide the county into townships and into election, school, road, supervisor, sanitary and other districts as may be required by law.

▶ To establish, abolish and change election precincts and to appoint inspectors, clerks and judges of elections, canvass all election returns, declare the results and order the county clerk to issue certificates thereof.

▶ To maintain public animal pounds.

▶ To provide for the working of prisoners confined in the county jail upon public works and projects, if for the benefit of the county.

- ▶ To secure for county officers, all necessary materials, supplies, furnishing and equipment.
- ▶ To license for the purpose of regulation, but not for revenue, all and every kind of business transaction and carried on within the county and to fix the rate of such license tax. The board of supervisors may only license, for the purpose of revenue, persons who do not have a fixed place of business within the county, such as hawkers, itinerant peddlers or vendors.
- ▶ To make the enforce within the county, local, police, sanitary and other regulations which do not conflict with the provisions of the State's general laws concerning Statewide matters.
- ▶ To provide for the care and maintenance of indigent sick and of dependent poor.
- ▶ To acquire by lease or construction, buildings necessary for county offices and institutions.
- ▶ To insure all county buildings and property and to secure indemnity insurance against loss or liability on account of burglary, forgery, embezzlement or defalcation.
- ▶ To provide for the education or information of the public relative to the prevention of fires and conservation of natural resources.
- ▶ To provide for the care, treatment and cure of physically challenged or handicapped minors, when the parents or guardians of such minors are not financially able to secure proper treatment.
- ▶ To publish annually, a statistical report of county financial transactions, showing all receipts and expenditures.
- ▶ To prepare and print the annual budget for the county.
- ▶ To cause a county census, and townships therein, to be taken in years other than those in which a census is taken by the United States.
- ▶ To provide for the preservation of the health of domestic livestock.
- ▶ To collect, prepare and maintain an exhibition of the products and industries of the county at any local, domestic or foreign exposition.
- ▶ To provide and maintain public airports.
- ▶ To issue subpoenas, compel witnesses' presence and document production before the board.
- ▶ To incur no indebtedness, except in cases of emergency, exceeding in any year county income or revenue provided for that year without the assent of two-thirds of the qualified electors of a county voting at a special purpose election. If authorized by the electorate to incur additional indebtedness, the board must provide for the collection of an annual tax to pay the current interest on such indebtedness and create a sinking fund to pay principle on its maturity. The maturity date shall not exceed a period of 40 years from the date the indebtedness is incurred.
- ▶ To consider, dispute and resolve all claims presented against the county.

2. Electorate.

(a) Initiative

BY THE PEOPLE. The county's legislative power is not vested exclusively in the board, but it may be exercised by the electorate of a county by either initiative or referendum. The power to legislate by initiative or referendum is especially reserved to the people of a county by the State Constitution. Prior to circulating an initiative petition proponents must publish a notice of intention to do so, accompanied by a printed statement not exceeding five hundred words in length setting forth the reasons for the proposed measure. A copy of the notice and the accompanying statement, together with an affidavit that the same has been published, must be filed (within ten days of publication) with the county clerk, acting as the clerk of the board. Following expiration of twenty-one days after such publication, the petition proposing a particular legislative measure must be circulated and signed by a certain percentage of county electors. Signatures must be secured and the petition filed within 180 days from the date of the first publication of the notice of intention. Electors must state the date of signing, their place of residence and their precinct. The person who circulated the petition must affix an affidavit to the

effect that the circulator witnessed the signing of the petition by the respective electors and that such signatures are genuine. The petition is then filed with the county clerk, who examines the sufficiency and genuineness of signatures thereon and attaches to the clerk's certificate the results of the clerk's examination. The board is then presented with the petition by the county clerk. If the clerk's certificate indicates an insufficient number of valid signatures, the proponents may file, within ten days thereafter, a supplemental petition with additional signatures which must be checked and certified by the clerk.

If the petition requests that the proposed ordinance be submitted to the people at a special election and if it is signed by the qualified county electors equaling in number at least 20% of the entire vote cast within that County for all candidates for Governor at the last general election, then the board shall either pass within 10 days such ordinance as presented or it shall call a special election and submit the proposition to a vote of the qualified electors of the county.

If the petition accompanying the proposed ordinance is not required to be submitted to the people at the special election, or for any reason it is not so submitted, and if the petition is signed by qualified county electors equaling in number at least 10% of the entire vote cast within that county for all candidates for Governor at the last general election, then the board shall either pass such ordinance as presented or submit it to a vote of the people at the next general election. Prior to any election, sample ballots must be mailed to each registered county elector. Such sample ballots may contain statements, each not exceeding three hundred words in length, arguing in support of and in opposition to the proposed ordinance. A copy of the proposed ordinance must also be so mailed at the same time.

The enacting clause of the proposed ordinance is worded as follows: "The People of the County of. . . . do ordain as follows:" The ballots used, when such initiative measure is submitted to the people, merely state: "Shall the ordinance (stating the nature thereof) be adopted? Yes. . . . No. . . ." The electors indicate their votes by punching their ballots or stamping a cross (x) in the place following either the "Yes" or "No." A majority vote is necessary to pass an ordinance in this manner. If so passed, it becomes effective ten days after the vote has been canvassed and the results declared. No measure initiated by the people, whether passed by the board or county vote can thereafter be repealed or amended except by a vote of the electorate, unless the initiated ordinance makes provision to the contrary.

BY THE BOARD Proposed ordinances may be submitted directly to qualified county electors by the board acting without the necessity of a petition being prepared, signed and filed. The board may submit to the people for majority vote at either a general or special election, propositions for new enactments or for repeal, amendment or modification of existing enactments.

(b) Referendum

Except for those relating to an election, ordinances adopted by the board do not become effective until thirty days after final passage. Another exception to this rule is for ordinances providing for the immediate preservation of the public peace, health or safety, which ordinances contain a declaration of, and the facts constituting, the urgency, and are proposed by a four-fifths board vote. These emergency ordinances become effective immediately.

The purpose of providing a thirty day period after the passage of an ordinance before it becomes effective is to permit the filing with the board a petition for referendum. This petition must be signed by county electors equaling in number 10% of the entire number of votes cast in the county for all candidates for Governor at the last general election. Upon presenting the board with a petition protesting the passage of a particular ordinance, the ordinance is suspended from going into operation and the board must reconsider the ordinance. However, if it does not

thereafter entirely repeal the ordinance, then the board must submit the ordinance to a vote of the County electorate at either a general or special election. A majority vote in favor of the proposed ordinance as passed by the board is necessary to put the ordinance into full force and effect.

C. Executive.

CHAIR OF THE BOARD OF SUPERVISORS. The chair presides at all meetings of the board and performs such duties as may be prescribed for the board, either by the State legislature or by the board. All board records and minutes must be signed by the chair as well as by the clerk. The chair has the authority to issue subpoenas compelling the presence of witnesses or the production of documents.

DISTRICT ATTORNEY. The district attorney is the chief legal advisor of a county and must, when required, give a written opinion to any county officer on matters relating to the duties of the respective office. The district attorney is also the public prosecutor of a county and must prosecute, on behalf of the people of the State, persons accused of public offenses. Further, the district attorney must prosecute or defend all civil actions brought either by or against the county or any officer thereof. Some counties have a legal officer designated the "county counsel." The county counsel discharges all the duties concerning civil matters rather than the district attorney.

The district attorney must institute proceedings for the arrest of persons charged with or reasonably suspected of public offenses when possessed of information that any such offenses have been committed. If such a person being so arrested is held by the magistrate to answer for the offense charged before the trial court of a County, then the district attorney must draw and file an information, which is, in effect, a criminal complaint, charging said person with the commission of such crime. In addition, the district attorney must attend before and give advice to the county grand jury and, at its request, draw and prepare indictments, which also are criminal complaints charging a particular person or persons with the commission of a criminal or public offense. An information or indictment is necessary when a person is charged with the commission of a public offense over which the Superior Court has original jurisdiction. In all other cases (typically, infractions), it is necessary only to have an ordinary written complaint prepared. It is then the duty of district attorney to prosecute such public offenses, whether such proceedings are initiated by way of complaint, indictment or information.

SHERIFF. The principal duty of the sheriff is to preserve peace in the county. Consequently, the sheriff has authority to prevent and suppress any breaches of the peace, affrays, riots and insurrections and must investigate all public offenses committed within the county. All persons who have attempted to commit or who have committed a public offense must be arrested by the sheriff and taken before the nearest judicial officer for examination. An officer having the power to issue a warrant for the arrest of a person charged with a public offense is a magistrate. In California, superior court judges and commissioners of the superior court are magistrates. The sheriff must attend the county superior court and act as the crier thereof. As crier, the sheriff, or a deputy assigned to a court department, proclaims the opening and adjournment of the court, and calls the parties, witnesses and other persons appearing before the court. All processes, orders and notices like writs of attachment, garnishment and execution, must be executed by the sheriff, and returned or processed without delay.

The sheriff is responsible for taking charge of and keeping the county jail and prisoners therein. In those cases where prisoners in the county jail have been committed either to the State prison or to a State hospital or other institution, the sheriff is responsible for the transportation of prisoners to such places. The sheriff is held responsible for all moneys and valuables found on each prisoner when delivered at the county jail. The sheriff also is the *ex officio* county director of civil defense and disaster preparedness operations.

PUBLIC ADMINISTRATOR. The public administrator takes immediate charge of all property of any person who has died within the county in those cases where no legal representative of the decedent has been appointed, so as to prevent such property from being wasted, uncared for or lost. In this connection, the administrator must keep a book labeled "Register of Public Administrator," in which are entered all matters which may be necessary to give a full and complete history of each estate administered. Once every six months the administrator must make a summary report under oath to the Superior Court as to all matters which have been entered in the register within the preceding six month period. If, for any reason, the public administrator fails to qualify for the office or fails to properly perform the duties of the office, then the coroner acts as *ex officio* public administrator.

CORONER. When a coroner is informed that a person has been killed or has committed suicide or has suddenly died under such circumstances as to afford a reasonable ground to suspect that the death has been occasioned by the act of another by criminal means, the coroner must hold an inquest upon the body of such deceased person for the purpose of giving a professional opinion as to the cause of death.

If the coroner feels that circumstances warrant, the coroner may summon a coroner's jury, composed of not less than nine nor more than fifteen persons to inquire who the deceased was and when, where and by what means the deceased came to death. The results of the coroner's jury must be certified in writing, in the nature of a verdict. If the verdict finds that the death was occasioned by the act of another by criminal means and the party committing such act is ascertained and is not then in custody, the coroner must issue a signed warrant with the name of office, and directed to any sheriff, constable, marshal or police officer in this State, for the purpose of apprehending and arresting such person.

The coroner must keep an official register called the "coroner's register" in which must be entered the date when all inquests are held, the names of decedents for purpose of identity, a list of property found on decedents, what disposition has been made of the same, and the causes of death, when known. Property belonging to a decedent must be delivered to the latter's legal representative within 30 days and if not, then it must be delivered to the county treasurer. If a coroner is absent, the duties of office may be discharged by any of coroner deputies, and if the office is vacant, then the duties may be discharged by any justice of the peace within the County. In any action or proceeding to which the county sheriff is a party, all processes and orders must be executed by the coroner, acting for that purpose as *ex officio* sheriff.

COUNTY CLERK. This officer must take charge of and safely keep all books, papers and records which may be filed in the office, such as all civil and criminal actions at law, suits in equity, adoption and naturalization proceedings, election returns, articles of incorporation, proceedings for the administration of the estates of decedents and for the guardianship of estates of minors and incompetent persons. The clerk must keep a memorandum of all such proceedings, of the papers so filed, and further, must keep a separate index of the same.

The clerk is the *ex officio* clerk of the Superior Court and must, when so required, issue all processes and notices for said court, enter a synopsis of all orders, judgments and decrees, and attend the judge of said court and all sessions thereof. The clerk acts as the clerk of the board of supervisors and, as such, must record and keep complete proceedings of the board, enter all resolutions, orders and decisions, record the vote of each member thereon, and authenticate, with the clerk's signature and seal of the board, its proceedings and all enacted ordinances. The clerk also acts as the Registrar of Voters in the absence of a special office being created for that purpose and must furnish all supplies appropriate and necessary for holding county elections.

RECORDER. The recorder must keep and record all official documents, such as deeds, leases, mortgages, wills, official bonds, maps, charts, notices, surveys, liens, and birth, death, marriage and residence certificates and such other writings as may be required or permitted by law to be recorded. Separate indexes must be kept by the recorder for the various entries.

AUDITOR. After the board has examined, allowed and ordered paid, certain claims and demands chargeable against the county, and after the amounts of other debts and demands, as fixed by law against the county have been determined, then the auditor must issue warrants, *i.e.*, checks, on the county treasury in favor of all persons entitled to be paid. In drawing warrants the auditor must distinctly specify the account from which it is drawn and when the charge accrued. Further, the auditor must examine each month the books of the county treasurer; and, thereafter, the auditor, together with the chair of the board and the district attorney, must make a financial report to be filed in the clerk's office.

TREASURER. All moneys belonging to the county must be received and kept by the treasurer in separate funds, according to law. The treasurer, on warrants drawn by the auditor, disburses county moneys. The treasurer must keep books of account showing various receipts and expenditures, and make a detailed monthly report to the board of supervisors.

ASSESSOR. The assessor must assess, at its cash value, all taxable property within the county. The assessor has from the first Monday in March to the first Monday in July of each year to prepare the assessment book; but all property is assessed as of the first Monday in March. This assessment book must contain, under appropriate headings, the names and addresses of all persons possessing taxable property within a county, a specific description of the same, and a statement as to its value. The board may create by ordinance tax appeal boards which shall constitute boards of equalization to equalize the value of taxable property.

TAX COLLECTOR. After the assessment book has been equalized by the board of supervisors and that body has established the tax rate, then the assessment book is delivered to the tax collector. It is then the duty of this officer to collect all assessed taxes. Further, as *ex officio* license collector, it is the duty of the tax collector to collect all licenses and other fees as are required by State law or imposed by ordinance of the board.

SUPERINTENDENT OF SCHOOLS. The county superintendent of schools annually visits and examines each school in the County; keeps and distributes school laws, reports, circulars and instruction, enforces the course of study, the use of State text books, and the examination of teachers, reports to the Board of Supervisors and to the State Superintendent of Public Instruction the average daily attendance, total number of pupils enrolled, number of teachers employed, and the list of text books used in each school within the County. In addition, this officer serves as the *ex officio* secretary of the County Board of Education.

OTHERS. There are other executive officials in a County beyond those specified above. Since the title of the office generally reveals the duties of the office, no additional discussion of those positions will be presented here. Such other officials include the County Administrative Officer, Director of Finance, Fish and Game Warden, Livestock Inspector, Health Officer, Surveyor or Engineer, Librarian and Public Defender.

D. Judicial.

Prior to 2000, the people of the State of California voted to allow the consolidation of Municipal and Superior Courts if a majority of the judges of the respective courts in any particular county agreed to consolidation. Some, but not all counties, initially approved the consolidation. As a result, depending on where a person resided, judicial functions were administered by a Justice Court, a Municipal Court, a Superior Court or by a consolidated Superior Court. The administration of a consolidated court system, is, typically, governed by

local court rules and procedures adopted by the judges of the County Superior Court. All Courts, however, are regulated by, and perform judicial functions in compliance with the Constitutions of the United States and California, the laws of the State of California, the California Rules of Court and any local court rules that are adopted by the judges of the courts. Additional procedural rules are contained in the California Code of Civil Procedure. Substantive laws are found on the various volumes of the legislative enactments of the state government and of local governments.

After 2006, however, all counties of the state approved judicial consolidation. Now, there exist only superior courts in each county of the state.

1. Trial Courts.

(a) Judicial Districts. The board in each county divides the county, as public convenience requires, into judicial districts. No city can be divided into more than one district.

(b) Officers. Officers of lower courts include the judge, clerk and/or marshal.

(c) Small Claims Courts. Each superior court has a small claims court. The jurisdiction is basically limited to cases for the recovery of money (not exceeding \$5,000) founded in contract or for personal injury or property damages. If a commissioner judge sits as a small claims court then the commissioner has jurisdiction in unlawful detainer proceedings after a default in rent for residential property if the tenancy is monthly and the entire amount claimed is \$5,000 or less. Attorneys are not permitted to participate in small claims actions. The proceedings are informal. The decision is binding on the plaintiff (*i.e.*, the person who brought the suit); however, the defendant (the person sued) may appeal the decision to the superior court. The case is tried anew on appeal. Commissioners are appointed by the superior court judges of a particular county and they serve as limited jurisdiction judicial officers who hear and determine criminal cases involving infractions and some misdemeanors, small claims matters and, upon consent of the parties, family law and domestic disputes and smaller amount civil cases.

(d) Superior Courts.

► **Judges**. The judge of the superior court is a state officer although serving in a particular county. Identified as the Superior Court of the State of California in and for each of the 58 Counties of the state, superior court judges possess general jurisdiction to hear and determine both civil and criminal cases. There may be many departments of the court in each county. The judge is elected on a non-partisan basis within the county of the judge's residence. A person is ineligible to be a judge unless for ten years immediately the individual has been a member of the State Bar of California. Judges are elected at a general state election for a six year term. A vacancy is filled by election to a full term at the next general state election after the January 1st following the date of the vacancy. During the interim, a vacancy may be temporarily filled by a person appointed by the Governor. A superior court judge's salary is fixed by the state legislature. Since the superior court judge is really a state officer, the county pays only a small part of the salary and the balance is paid by the state. During a term of office a judge may not practice law or hold any other public office or public employment. Judges are subject to recall proceedings and also are subject to impeachment for misconduct in office. In addition, judges are subject to removal or retirement by the California Supreme Court on recommendation of the Commission on Judicial Qualifications.

► **Jurisdiction**. The judge is the presiding officer of the superior court. Originally, all sessions of the superior court were held at the seat of the county government. With population growth, state law permits each county to create a branch office of the superior court in locations outside the county seat. The presiding judge of the superior court and branches maintains an office at the county seat, being elected as presiding judge by fellow judges of the county on a yearly basis.

The superior court is the general trial court in California and has jurisdiction in all criminal cases amounting to a felony and in all civil matters, except those civil and criminal matters where state law gives jurisdiction to the small claims court division of the superior court. The superior courts have appellate jurisdiction over cases arising involving the trial of “infractions” (typically, traffic citations) and over small claims appeals. A division of the superior court also sits as: (1) the Juvenile Court, the jurisdiction of which court extends to any minor under the age of eighteen years charged with a criminal offense; (2) the Probate Court, the jurisdiction of which involves wills, trusts, guardianships and conservatorships; and (3) the Family Law Court, the jurisdiction of which involves domestic law (divorces, separations, and related disputes)..

2. Grand Jury

A grand jury is composed of “the required number” of persons, meaning twenty-three in a county with a population exceeding four million persons, and nineteen in other counties. To be competent and eligible to act as a grand juror, a person must be a citizen of the United States, have been a resident of the county for one year, must be over the age of eighteen years, possessed with natural faculties, intelligence and sufficient knowledge of the English language, and not be serving as an elected public officer. A grand jury must be drawn and summoned at least once a year in each county. Consequently, each January the superior court orders the selection of grand jurors. The court itself makes the selections and forwards the list to the county clerk acting as *ex officio* clerk of the superior court. Thereafter, the clerk summons the jurors so drawn and listed, and they are impaneled and sworn by the superior court. Before the grand jurors are drawn, the county clerk must publish at least one time in a newspaper the names of the persons nominated (this varies from 25 to 30 names) and state the name of the judge nominating each person. It is the sworn duty and power of the grand jury to inquire into public offenses friable in the county, and if a public offense is found to have been committed, the jury must present a written accusation to the superior court, known as an indictment, charging a particular person with such offense. It is then the duty of the District Attorney to prosecute the person so charged in the indictment.

In addition, the grand jury is charged with making a complete examination of all accounts and records of all officers of the county and filing reports and recommendations with the court and the county clerk. The proceedings of the grand jury are secret unless its sessions have been opened to the public by direction of the superior court.

3. Law Library

In each county there is established and maintained, at the County seat, a law library governed and managed by a body known as the “board of law library trustees,” who serve without compensation. Trustees must meet monthly and a majority of their number is sufficient to constitute a quorum for business. One of the trustees must be selected by the others as the president of the board. A secretary and librarian must be elected or appointed by these trustees.

The law library is financially supported by filing fees payable to the county clerk on the commencement of any civil action. These fees are deposited in the county treasury. The expenses of the law library are paid from this fund when authorized by the law library trustees.

The “board of law library trustees” is composed of the following: (a) not more than three superior court judges, (b) the chair of the board of supervisors, and (c) attorneys (members of the bar of the County), who are appointed by the board sufficient in number to constitute a board of five members or of seven members (if there are three or more courts in the county).

III. SUMMARY.

County Government has a profound impact on the lives of California residents. From health to education and prosecution of crimes to the criminal defense of the indigent, the county

is an important but largely underappreciated locus of government which influences the lives of the people in many diverse and fundamental ways.

PART IV STATE GOVERNMENT

I. INTRODUCTION.

Page One of this Manual outlines the history of government in California from the territorial government to Statehood and the adoption of the Constitution of 1879, together with the method of accomplishing amendment or revision to the State Constitution. There will now be discussed the various executive, legislative and judicial offices of the state. The state is sovereign. Consequently, its government is supreme, except in so far as certain powers have been delegated to the federal government under the Federal Constitution or prohibited to the state government under the State Constitution.

II. GOVERNMENT.

A. Executive.

1. In General.

SELECTION. State executive officers are partisan, with the exception of the Superintendent of Public Instruction, and are elected by the people at the general state election.

TENURE. They serve for a term of four years, commencing on the first Monday following the first day of January after their election, and until their successors are elected and qualified.

COMPENSATION. The annual compensation is fixed by statute.

QUALIFICATIONS. In order to be eligible for one of these state offices a person must be a citizen of the United States and an elector within California. Additional qualifications, however, are required of those who seek the offices of Governor and Lieutenant Governor, in that, in order to hold one of these offices a person must have resided within California for at least five years prior to the election.

2. Constitutional Officers.

GOVERNOR. The Governor is vested with supreme executive power. Among some of the more important duties of the Governor are:

- ▶ To act as Commander-in-Chief of the State Militia.
- ▶ To require written information from the officers of the various executive departments on matters relating to the duties of their respective offices.
- ▶ To see that the laws are faithfully executed.
- ▶ To make appointments according to law and to fill vacancies where the same are not otherwise provided for.
- ▶ To call special sessions of the legislature, stating the purposes therefore, when extraordinary occasions demand such action.
- ▶ To deliver to the legislature a message on the conditions in the State and to recommend legislation.
- ▶ To adjourn the legislature if the two houses are unable to agree as to the time of adjournment.
- ▶ To keep the Great Seal of the State of California, as required by the Constitution. (But actually it is kept by the Secretary of State).
- ▶ To grant, in aid of executive clemency, reprieves, pardons and commutations of sentences of persons convicted of criminal offenses.
- ▶ To approve or disapprove legislative measures.
- ▶ To function as the official organ of communication between the government of California and the government of any other State and the government of the United States.
- ▶ To issue and transmit election proclamations.

- ▶ To issue land warrants and patents.
- ▶ To issue arms and accouterments for the use of colleges.
- ▶ To discharge his duties as a member of various State boards and commissions.
- ▶ To prepare the state budget and submit it in the form of a legislative bill to the legislature.

LIEUTENANT GOVERNOR. The chief duties of the Lieutenant Governor are to serve as acting Governor in the absence of the Governor from the state, to act as presiding officer of the senate (in which role the Lieutenant Governor may cast a vote only in the case of a tie), and to act as *ex officio* member of various state boards and commissions.

SECRETARY OF STATE. The principle functions of the Secretary of State are:

- ▶ To file and record articles of incorporations, amendments and corporate dissolution certificates.
- ▶ To assist in calling and conducting elections, in canvassing election returns, and declaring the results thereof.
- ▶ To file initiative, referendum and recall petitions.
- ▶ To file and keep the State Constitution and all laws passed by the legislature, as well as copies of all municipal and county charters.
- ▶ To attest official acts of the Governor by affixing the Great Seal, together with a signature.
- ▶ To file all applications for state trademarks and trade names.
- ▶ To keep a record of all official bonds of state officers and deliver the originals to the State Treasurer.
- ▶ To distribute to the various state officers and public libraries, copies of the laws, resolutions and journals of our legislature.
- ▶ To attend every session of the legislature; to receive bills and resolutions and to perform other duties devolved by resolution of either or both Senate and Assembly.
- ▶ To report to the Governor a detailed account of official actions, together with a financial report on or before the 15th day of September in even numbered years.

CONTROLLER. The Controller is chargeable with the following duties:

- ▶ To account for and disburse all state funds.
- ▶ To cause all moneys due the state to be paid into the state treasury.
- ▶ To supervise the assessment and collection of certain state taxes, such as inheritance, motor vehicle fuel, transportation, beverages, oil and gas, retail sales, and franchise taxes.
- ▶ To act as *ex officio* member of various state boards and commissions.
- ▶ To superintend the fiscal concerns of the state.

TREASURER. It is the duty of the Treasurer:

- ▶ To receive and keep all moneys belonging to the state.
- ▶ To pay moneys out on warrants drawn by the Controller.
- ▶ To account for all moneys received and disbursed.
- ▶ To supervise the sale of state bonds and warrants and their redemption and interest payments.
- ▶ To give written information to the Governor, the Controller and the legislature concerning the condition of the state treasury, or concerning any subject relating to the duties of his office.

ATTORNEY GENERAL. The Attorney General is the chief law enforcement officer of the State and the head of the Department of Justice whose duties include the duty:

- ▶ To see that the state laws are uniformly and adequately enforced in every county.
- ▶ To supervise the performance of the duties of law enforcement officers, such as district attorneys and sheriffs.
- ▶ To render legal advice to the legislature, to all state officers, boards, commissions and district attorneys throughout the state.

- ▶ To prosecute and defend actions brought by or against the state.
- ▶ To take the proper steps for securing property escheating to the state.
- ▶ To prepare circulation titles and ballot titles for initiative and referendum measures.
- ▶ To defend all criminal cases on appeal.
- ▶ To act as *ex officio* member of various boards and commissions.

INSURANCE COMMISSIONER. The Insurance Commissioner is the non-partisan elected official charged with administering, supervising and regulating the businesses of insurance in the State of California. The Insurance Commissioner shall, at each gubernatorial election, be elected by the people. The principal functions of the Insurance Commissioner are:

- ▶ To supervise the insurance industry and to regulate the conduct of the business of life, health, property, auto and casualty insurance in the State of California.
- ▶ To monitor the setting of rates and the administration of claims made by and against businesses that sell or offer for sale, insurance products in the State of California.
- ▶ To administer the regulatory functions of the Department of Insurance and manage and operate the administration and enforcement and control proceedings over the insurance industry.

SUPERINTENDENT OF PUBLIC INSTRUCTION. The Superintendent of Public Instruction is the highest presiding school authority in the state, being the *ex officio* Director of Education and together with the State Board of Education is chargeable with the duty of carrying out this mandate of the people as expressed in the Constitution. The Superintendent of Public Instruction shall, at each gubernatorial election, be elected by the people. The principal functions of the Superintendent of Public Instruction are:

- ▶ To execute under the direction of the State Board of Education, the policies which have been decided upon by that board.
- ▶ To superintend the schools of the State of California.
- ▶ To visit the several special schools and supervise the course of instructions therein.
- ▶ To visit the schools in the different counties.
- ▶ To estimate each year the amount of state school monies that will be apportioned to each county or city and county for the current school year.
- ▶ To report to the Governor before each regular session of the legislature, the condition of all public schools, state colleges and other educational institutions supported in whole or in part by the State of California.

3. Vacancies.

(a) Succession to Governorship. In case of a vacancy in the office of Governor, then the succession to that office is the following order: Lieutenant Governor, President *pro Tempore* of the Senate, Speaker of the Assembly, Secretary of State, Attorney General, Treasurer, and Controller; or, if there be none because of war or enemy-caused disaster, then such person as may be described by law.

(b) Commissions for Constitutional Officers. There are two commissions in state government that have authority pertaining to vacancies, namely: the Commission on the Governorship and the Commission on the Constitutional Officers. The membership of each commission is identical, to wit: President *pro Tempore* of the Senate, Speaker of the Assembly, President of the University of California, Chancellor of the California State Colleges, and the Director of Finance. The Commission on the Governorship has the exclusive authority to petition the Supreme Court to determine any questions that arise relating to vacancies in and succession to the office of Governor. Likewise, the Commission on Constitutional Officers has exclusive authority to petition the Supreme Court to determine any questions that may arise relating to vacancies in and succession to the offices of Lieutenant Governor, Secretary of State,

Attorney General, Treasurer, Controller, Insurance Commissioner and Superintendent of Public Instruction.

4. Commissions and Boards.

There are a number of independent commissions and boards that are part of the executive branch assisting in the administration of state government functions, for example; Board of Equalization, Public Utilities Commission, Board of Education, Board of Regents of the University of California, Trustees of State Colleges, Board of Governors of Community colleges, Coordinating Council on Higher Education, and Council on Criminal Justice.

5. Governor's Office.

Each Governor may organize the staff. The Governor's staff has frequently consisted of the following: Executive Secretary, Assistant Executive Secretary, Appointment Secretary, Cabinet Secretary, Education Secretary, Assistant for Community Relations, Legal Affairs Secretary, Legislative Secretary, Press Secretary, Secretary for Program Development, Assistant for Intergovernmental Affairs, and Assistant for Research. In addition, the State Military Department (headed by the Adjutant General) and also its Office of Emergency Services (Civil Defense and Emergency Planning) are under the Governor. There are certain other statutory groups appointed by, and under, the Governor, for example: the California Arts Commission, the California Advisory Commission of Marine and Coastal Resources, and the California Design Awards Committee.

6. Agencies.

The Governor (being vested with the "supreme executive power" of this state) has the duty to see that "the law is faithfully executed." Hence, the organization of the executive branch of the government (required for the administration of the law) is for the Governor to determine in the first instance. The Governor submits to the Legislature any reorganization plan for state government which becomes effective unless the Legislature decides that a further study of the plan is needed. The executive branch of state government as administered by past Governors has been divided into Departments and Agencies, including: Department of Finance, Business and Transportation Agency, Resources Agency, Human Relations Agency, and Agriculture and Services Agency. Each Agency is headed by a person designated as the Secretary of the Agency. These Agencies are organized in the following manner:

Business and Transportation Agency

- Department of Aeronautics
- Department of Alcoholic Beverage Control
- Department of State Banking
- Department of Corporations
- Department of California Highway Patrol
- Department of Housing and Community Development
- Department of Insurance
- Department of Motor Vehicles
- Department of Public Works
- Department of Real Estate
- Department of Savings and Loan

Resources Agency

- Air Resources Board
- Colorado River Board of California
- Department of Conservation
- Department of Fish and Game

Department of Navigation and Ocean Development
Department of Parks and Recreation
State Water Resources Control Board
Department of Water Resources
Bay Conservation and Development Commission
Reclamation Board
Office of Nuclear Energy

Human Relations Agency

Department of Corrections
Department of Youth Authority
Department of Health Care Services
Department of Human Resources Development
Department of Industrial Relations
Department of Mental Hygiene
Department of Public Health
Department of Rehabilitation
Department of Social Welfare

Agriculture and Services Agency

Department of Agriculture
Department of Commerce
Public Employees' Retirement System
Office of Fire Marshal
Franchise Tax Board
Department of General Services
Department of Professional and Vocational Standards
State Personnel Board
Teachers Retirement System
Department of Veterans Affairs
Office of Consumer Counsel

The titles of these agencies, as well as the titles of the several departments, boards, and offices indicate their subject matter and functions. For the most part, the top officials are appointed by the Governor and serve at the Governor's pleasure. Each department or office is itself organized into divisions or offices. An illustration of this type of internal administrative sub-organization, the Department of Commerce (which is within the Agriculture and Services Agency) has separate divisions of (1) Economic Development (2) World Trade (3) Tourism and Visitor Services and (4) Museum of Science and Industry.

Since individual Governors come to office with different backgrounds, experiences and histories, the organization of the Executive Branch of state government will vary as the various administrations change over time. The Department-Agency organizational model, however, serves as a framework for the creation and implementation of the state's executive branch.

B. Legislative.

The legislative power of is vested in the California Legislature but the people reserve to themselves the powers of initiative and referendum.

1. Senate and Assembly.

MEMBERSHIP. The State Legislature is composed of two branches, namely, the Assembly, consisting of eighty members, and the Senate, consisting of forty members. Consequently, the state is divided into forty senatorial districts and eighty assembly districts.

QUALIFICATIONS. In order to be eligible for membership in either branch of the legislature a person must have been a citizen and resident of California for at least three years, and of the district represented for at least one year, prior to the date of the election. There is no specific age qualification but one must be an elector of this state in order to hold office, and in order to be an elector one must be at least eighteen years of age.

SELECTION-TENURE. Legislative members are elected by the qualified electors of the state at the regular general election. Terms of office commence on the first Monday after the first day of January following election. The assembly members serve for a term of two years and senators serve for at term of four years.

COMPENSATION. Each member of the Legislature receives an annual salary. In addition, each member is reimbursed for travel expense in going to and coming from legislative sessions and for living expenses while attending the legislature or committee meetings.

SESSIONS. The legislature meets annually in regular session at noon on the Monday after January 1st. At the end of each regular session, the Legislature recesses for 30 days and then reconvenes on the first Monday after the 30-day recess for a period not to exceed 5 days to reconsider measures vetoed by the Governor. However, there are proposals in process to change the law to eliminate this 5 day session. On extraordinary occasions the Governor, by proclamation, may convene the Legislature in special session to consider only the subjects specified in the proclamation.

The Lieutenant Governor acts as the presiding officer of the senate. The assembly chooses its own presiding officer who is known as the Speaker.

Upon convening in regular session, each legislative house determines its own rules of proceedings and, exercises exclusive power to act as judge of the qualifications and election returns of its own members. Ordinarily, a majority of the members elected to either house constitutes a quorum for the purpose of transacting business. However, a two-thirds vote of all members elected to either house is required for such house to expel one of its own members.

DUTIES. The primary function of the state legislature is to act as the law-making body of California. It is not feasible to attempt to enumerate the scope of its legislative power in this respect, for, as indicated previously, it may legislate in any matter about which the sovereign State has jurisdiction, except in so far as the right to do so in a particular instance has been denied by either the State Constitution or the Federal Constitution.

2. Limitations on Legislative Action. The state legislature cannot, of course, purport to exercise any authority on those matters, the jurisdiction over which has been delegated by the people to the federal government, as for example, interstate commerce. Students should become familiar with the provisions of the Federal Constitution governing the scope and limitations of the power of the Federal Congress, and consequently, the jurisdiction of the federal

government. Limitations on the scope of legislative action are also found in the California State Constitution.

(a) General and Special Laws. The legislature must, as a general rule, enact laws which are general and uniform in their operation and application and avoid the enactment of special laws, except in those cases where a general law is not possible.

(b) Subject and Title of Bills. All legislative measures must contain only one subject and that subject must be expressed in its title. However, the title need not be a summary, synopsis or abstract of the contents of the bill, it being sufficient if such title reasonably intimates, in a comprehensive scope, the subject matter thereof.

(c) Legislation by Reference. The legislature cannot enact, revise or amend statutes by reference to the title of other statutes. In such cases, it is necessary to enact, revise or amend the particular act or section by republication at length.

(d) English Language. All legislative measures must be enacted and published in the English language.

(e) Budget. The Governor is required to submit to the Legislature, within the first 10 days of each regular session, a budget for the ensuing fiscal year together with an explanatory message. The budget must contain an itemized statement of recommended state expenditures and revenues. If the estimated expenditures exceed estimated revenues, then the Governor shall recommend sources from which additional revenues should be provided. The budget is accompanied by a budget bill itemizing recommended expenditures. The bill is introduced immediately in each house by the chair of committees that consider appropriations. The budget bill must be passed by the Legislature by no later than midnight on June 15th of each year.

(f) Appropriations. No money can be withdrawn from the treasury except by an appropriation made by law. An appropriation is a direction or authorization, either statutory or conditional, for the withdrawal of money from the state treasury. In making the appropriation the legislature must state the purpose for which the particular funds are to be withdrawn, the specific amount necessary, and the source from which the funds are to be taken or the manner in which they are to be paid. Further, appropriations may be made for an unlimited period of time and may be made in anticipation of revenues. No legislative measure can contain more than one item of appropriation except the budget bill, and no bill appropriating money (except emergency bills recommended by the Governor or appropriations for Legislative salaries and expenses) can be finally passed by the Legislature until that body has passed the budget bill. Appropriations from the state general fund, except appropriations for public schools, are void unless passed in each house by roll call vote entered in the journal with two-thirds of the membership concurring.

(g) Indebtedness. The legislature cannot create any debt in excess of specified amounts unless the same is ratified by a majority vote of the electorate of the state. Even then it is necessary for the legislative measure creating such indebtedness to make provision to cover the interest payments and for the establishment of a sinking fund to pay the principal of the obligation or bond on or before maturity, which must not be in excess of fifty years.

(h) Loans and Gifts. The credit of the state cannot be loaned, and no gifts of public moneys can be made by the legislature.

(i) Additional Duties. The legislature cannot assign duties to be performed by Constitutional officers that would be inconsistent with the purposes and functions of the offices.

(j) Compensation. The compensation of state officers, during their terms of office, cannot be increased nor diminished by the legislature.

(k) Taxation. With reference to taxation the legislature must recognize the policy of this state, as expressed in the “Separation of Source Plan,” requiring that taxes for the support and maintenance of political subdivisions and localities within the state are derived partly from taxes based upon real and personal property within such areas, according to the value of the same, whereas revenue for state purposes is derived mainly from franchise taxes, license fees and income taxes.

3. Enactment of Statutes.

Legislative measures may be introduced in either the senate or the assembly. While in the process of the passage through the legislature, a measure is known as a “bill” and upon its passage it becomes known as an “act.” All bills must be titled and the enactment clause reads, “The people of the State of California do enact as follows:”

As soon as a bill is introduced into either house of the legislature, it is referred to a committee. The committee proceeds to hold hearings on the proposed measure and prepares a report based upon those hearings. The committee then reports the bill back to the house which referred it to the committee and it is therein read three times. Following the third reading the members of the particular house then vote upon the measure and if it receives a majority vote the bill is forwarded to the other house of the legislature. In the other house, the bill follows the same process it went through in the first house. If this house also adopts the measure by a majority vote it is then forwarded to the Governor. However, if the second house changes the bill in any way as it was sent by the first house, then the bill, as changed, must be sent back to the house in which it originated. It is then referred to the same committee, as previously, to make a report back to the house, or else it may be forced out of the committee onto the floor of the house by a majority vote of the members of that house. If the assembly and the senate are unable to get together upon the legislative measure and remain at loggerheads, then a joint committee, composed of members appointed by both houses, attempts to redraft the bill so as to render it suitable to the desires of both houses. The bill then must be resubmitted to each house for action and, if approved by a majority vote in each, it is forwarded to the Governor.

The final legislative step in the passage of an act is approval by the Governor. The Governor may either: (i) sign the bill, thus rendering it effective as a statutory act, or (ii) veto it, that is, return the bill, with objections, to the legislative house in which it originated. In the latter case, the measure may then be passed over the Governor’s veto by a two-thirds vote of the members elected to each legislative house.

The California Constitution (Article 4 Section 8) provides that:

▶“(a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by roll call vote entered in the journal, three-fourths of the membership concurring.”

▶“(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on four days in each house except that the house may dispense with this requirement by roll call vote entered in the journal, two-thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the members. No bill may be passed unless, by roll call vote entered in the journal, a majority of the membership of each house concurs.”

▶“(c) No statute may go into effect until the 61st day after adjournment of the regular session at which the bill was passed, or until the 91st day after adjournment of the special session at which

the bill was passed, except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes.”

► “(d) Urgency statutes are those necessary for the immediate preservation of the public health, peace, or safety. A statement of fact constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by roll call vote entered in the journal, two-thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.”

The California Constitution (Article 4, Section 10) further provides that:

► “(a) Each bill passed by the Legislature shall be presented to the Governor.” It becomes a statute if it is signed. The Governor may veto it by returning it with objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by roll call vote entered in the journal, two-thirds of the membership concurring, it becomes a statute. A bill presented to the Governor that is not returned within 12 days becomes a statute. If the 12-day period expires during the recess at the end of a regular session, the bill becomes a statute unless the Governor vetoes it within 30 days from the commencement of the recess. If the Legislature by adjournment of special session prevents the return of a bill it does not become a statute unless the Governor signs the bill and deposits it in the office of the Secretary of State within 30 days after adjournment.

► “(b) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill.” The Governor “shall append to the bill a statement of the items reduced or eliminated with the reasons for the action.” If the Legislature is in session, the Governor shall transmit to the house originating the bill a copy of the statement and reasons. The items reduced or eliminated shall be separately reconsidered and “may be passed over the Governor’s veto in the same manner as bills.”

The legislative bill, finally passed, is duly authenticated and enrolled, that is, on the face of the bill the chief clerk of the assembly writes the date it was passed by the assembly, the secretary of the senate writes the date it was passed by the senate, and the private secretary of the governor writes the date on which the bill was received by the Governor. At the end of the act it is signed by the speaker of the assembly, the president of the senate and the Governor, the latter affixing thereto the date of approval. If the bill becomes a law without the Governor’s veto but without a signature approving the same, then it is certified by the Secretary of State as having become a law.

This authenticated and enrolled bill is then filed in the office of the Secretary of State where it becomes conclusive evidence of its passage, and further, that all formalities and requirements have been complied with in its enactment.

4. Legislative Counsel Bureau

This bureau is directed by a chief civil executive officer with the title of Legislative Counsel of California who is selected by the legislature at the beginning of each Regular Session. The bureau is established for the purpose of rendering services to members of the legislature in drafting legislative measures; advising and assisting the courts, educational institutions and proponents of initiative measures, and any executive or judicial officer with respect to proposed legislation.

5. Electorate

The legislative power of the state is not vested exclusively in the legislature but may be exercised by the state electorate by means of either the initiative or the referendum.

(a) Initiative.

By the Legislature. The Legislature may propose a measure and submit it to the people. Such measure must appear on the ballot of the first general election occurring after 150 days after the adoption of the proposal by the Legislature. Arguments for and against the proposed measure may be prepared by the legislators (provided that the combined total of all arguments for or against the measure does not exceed 50 words making a total of 1,000 words). These arguments must be submitted to the Secretary of State within 15 days after the Legislature has adopted the proposal. If no legislative prepared argument is submitted for or against a measure, then any voter may request permission to prepare and file such an argument. The request is directed to the presiding officer of the legislative house in which the proposed measure originated. An argument prepared by such voter must be submitted to the Secretary of State within 30 days after the Legislature has adopted the proposal.

By the People. The California Constitution (Article 4, Sections 22 and 24) provides that:

► Sec. 22.

“(a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

(c) The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to the general election. The governor may call a special statewide election for the measure.

(d) An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.”

► Sec. 24.

(a) An initiative . . . measure approved by a majority of the votes thereon takes effect five days after the date of the official declaration of the vote by the Secretary of State unless the measure provides otherwise

(b) If the provisions of two or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

(c) The Legislature . . . may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.

(d) Prior to the circulation of an initiative . . . petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.

(e) The Legislature shall provide the manner in which petitions shall be circulated, prepared, and certified, and measures submitted to the electors.”

Pursuant to this Constitutional authority, the Legislature has made the following provisions for circulating, presenting, certifying, and submitting such measure to the electors:

Title and Summary. The persons proposing the measure must submit a draft of it to the Attorney General who is required to prepare a title, and summary of the chief purpose and points, not exceeding 100 words. If the proposed measure would require a substantial increase in state costs, and it does not contain a method of financing, then the title must state that if the measure is adopted it will require additional financing from state sources of about \$. The amount

included is supplied to the Attorney General by the Department of Finance and the Joint Budget Committee.

Petitions. First, petitions with signatures on a proposed initiative measure must be filed with the county clerk not later than 90 days from the date that the Attorney General delivered or mailed to the proponents a summary of the measure. The Attorney General notifies the Secretary of State who, in turn, notifies the county clerk of this official summary date. All initiative petitions must have printed across the top the following: "Initiative measure to be submitted directly to the electors." In addition, the Attorney General's summary must be printed across the top of each page of the petition. Each signer shall add to the signature the place of residence, giving the street and number, if such exist. The election precinct must also appear on the petition after the signature.

Circulators. Any qualified elector of the state may solicit signatures within the county of residence for the elector. If the proposed measure is to amend the Constitution, then any person 18 or over may solicit signatures. The persons soliciting signatures to a petition must attach to it an affidavit certifying to the qualifications and to the genuineness of the signatures signed in the affiant's presence. The petitions are the filed with the county clerk.

Examination. The county clerk must check the number of valid signatures within 20 days of the petitions being filed and certify the same to the Secretary of State. Supplemental petitions may be filed by the proponents within 40 days thereafter. The county clerk has 10 days to examine the signatures on the supplemental petitions and certify the same to the Secretary of State.

Election. When petitions with the required number of signatures have been received by the Secretary of State, the Secretary certifies the same and notifies the county clerk. No initiative shall be placed on a statewide special election ballot which qualifies less than 131 days before the date of the election. The ballot title is prepared by the Attorney General for the Secretary of State who is responsible for printing a sample ballot and a ballot pamphlet which shall contain:

- (a) A complete copy of all measures submitted to the voters by: (1) the Legislature and (2) Initiative or referendum petition;
- (b) A copy of the specific Constitutional or statutory provision, if any, proposed to be affected;
- (c) A copy of the arguments provide for by law;
- (d) A copy of the analyses as required by law; and
- (e) The Legislative Counsel's Digest of all statutes which become effective upon approval by the voters of a proposed Constitutional amendment, and in addition, a notification to voters that the complete text of each bill is on record in the office of the Secretary of State in Sacramento and is also contained in the published statutes.
- (f) These are then sent by the Secretary of State to each county clerk in the state for mailing by the county clerks to voters not more than 40 or less than 15 days before the date of the election.

(b) Referendum.

The California Constitution (Article 4 Sections 23 and 24) provides that:
"Sec. 23.

- (a) The referendum is the power of the electors to approve or reject statutes or parts of statues except urgency, statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.
- (b) A referendum measure may be purposed by presenting to the Secretary of State, within 60 days after adjournment of the regular session at which the statute was passed or

within 90 days after adjournment of the special session at which the statute was passed, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election asking that the statute or part of it be submitted to the electors.

- (c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The governor may call a special statewide election for the measure.”

“Sec. 24.

- (a) A . . . referendum measure approved by a majority of the votes thereon takes effect 5 days after the date of the official declaration of the vote by the Secretary of State unless the measure provides otherwise. If a referendum petition is filed against a part of a statute the remainder of the statute shall not be delayed from going into effect.
- (b) If the provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.
- (c) The Legislature may amend or repeal referendum statutes
- (d) Prior to the circulation of a . . . referendum petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.
- (e) The Legislature shall provide the manner in which petitions shall be circulated, presented, and certified, and measures submitted to the electors.”

(f) Pursuant to this Constitutional authority, the legislature has made provisions for circulating, presenting, certifying, and submitting such measures to the electors which provisions are substantially the same as those described above for initiative measures. However, in case of a referendum there must be printed across the top of each page of the petition “Referendum against an Act Passed by the Legislature.” On the first page of the petition is printed the 100 word summary prepared by the Attorney General; and, in addition, on each page after the first page there must be printed a short title, not to exceed 20 words, showing the nature of the petition and the subject to which it relates.

C. Judicial

1. Supreme Court.

(a) Membership-Tenure-Compensation. The Supreme Court of California is composed of one chief justice and six associate justices. The office of justice is non-partisan and is filled by election by the electors of the State at large. A justice serves for a term of twelve years commencing the first day of January following his election and until his successor is selected and qualified. A person is ineligible to serve on this court of record unless he has served the previous ten years either as a judge of a court of record in this State or has practiced law in this State as a member of the State Bar. The Legislature prescribes the compensation and also provides for retirement for age or disability.

(b) Selection. Since the adoption of a constitutional amendment in 1934 each justice of the Supreme Court, prior to the expiration of their term, may declare candidacy for election to succeed themselves. If they fail to do so, then the Governor must nominate a suitable person for the office. In either event, only the name of the incumbent or that of the person nominated by the Governor will appear on the official ballot at the general election in November. At that time the electors merely vote upon whether such candidate shall be elected to the office. A majority vote is required to elect a candidate.

However, if a majority votes against a particular candidate then the Governor must appoint a suitable person to fill the vacancy. Such person will hold office until the first Monday after the first day of January after the next general election following the appointment.

These provisions for the selection of Supreme Court justices are also applicable to the selection of justices for the Courts of Appeal and also for the judges of the Superior Court in any county in which the electors have adopted by a majority vote these provisions as being applicable to their particular county.

(c) Jurisdiction. The Supreme Court has original jurisdiction to issue writs of mandamus, *certiorari*, prohibition and *habeas corpus*. It also has appellate jurisdiction in the following cases:

(1) In all criminal cases, on questions of law alone, where a judgment of death has been rendered; and

(2) In all matters and proceedings pending before a Court of Appeal which may be ordered before it by the Supreme Court.

2. Courts of Appeal

(a) Districts. The state is divided into 6 courts of appeal districts based on geography:

- ▶ The First District consists of 5 divisions and its primary court sits in San Francisco;
- ▶ The Second District consists of 8 divisions and its primary court in Los Angeles;
- ▶ The Third District consists of 1 division and sits in Sacramento;
- ▶ The Fourth District consists of 3 divisions one of which sits in San Diego, another in Riverside and the third in Santa Ana;
- ▶ The Fifth District consists of 1 division and sits in Fresno; and
- ▶ The Sixth District consists of 1 division and sits in San Jose.

(b) Selection & Tenure. Appellate justices are non-partisan judges of courts of record. They serve for a term of 12 years and are selected and compensated in the same manner as the Supreme Court justices described above.

(c) Jurisdiction. The Courts of Appeal have appellate jurisdiction in all cases from the Superior Courts, except those cases above enumerated in which the Supreme Court has appellate jurisdiction. It likewise has original jurisdiction to issue the same writs as may be issued by the Supreme Court.

3. Judicial Council.

(a) Selection-Tenure. The Judicial Council consists of 21 persons, namely: the Chief Justice as chair and one other judge of the Supreme Court, 3 judges of courts of appeal, 5 judges of superior courts, 3 judges of municipal courts, and 2 judges of justice courts, each appointed by the chair for a 2 year term; 4 members of the State Bar appointed by its governing body for 2 year terms; and one member of each house of the Legislature appointed as provided by each house.

(b) Functions. The principal duties and functions are:

- ▶ To survey the condition of business in the courts of this state for the purpose of simplifying and improving the administration of justice.
- ▶ To make suggestions to the various courts of this state in the interest of uniformity and the expediting of business.
- ▶ To report to the Governor and the legislature, at the commencement of each regular session, whatever recommendations it may deem proper.
- ▶ To adopt or amend rules of practice and procedure for the courts of this state not inconsistent with the statutory provisions for the same; and further, to recommend, if necessary, changes in such statutory provisions relating to such practice and procedure.
- ▶ To expedite judicial business and to equalize the work of the judges of the courts of this state.

(c) Director. The council may appoint an Administrative Director of the Courts to serve at its pleasure and to perform functions delegated by the council or its chair, other than adopting rules of court administration, practice and procedure.

4. Commission on Judicial Appointments.

This commission consists of three persons, namely: the Chief Justice, the Attorney General, and the presiding justice of the court of appeal of the affected district (or if there are 2 or more presiding justices then the one who has presided longest, or if the nomination or appointment to the Supreme Court is to be considered then the presiding justice who has presided longest in any court of appeal). A nomination or appointment by the Governor (to fill vacancy in the Supreme Court or the Courts of Appeal) is not effective unless and until it is confirmed by the Commission on Judicial Appointments.

5. Commission on Judicial Qualifications.

This commission consists of 9 persons, namely: 2 judges of courts of appeal, 2 judges of superior courts, and 1 judge of a municipal court, each appointed by the Supreme Court: 2 members of the State Bar (who have practice law in this State for 10 years) appointed by its governing body; and 2 citizens (who are not judges, retired judges, or members of the State Bar) appointed by the Governor and approved by the Senate (a majority of the membership concurring). All terms are 4 years. Commission membership terminates if a member ceases to hold the position that qualifies them for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. On recommendation of the Commission on Judicial Qualifications the Supreme Court may (1) retire a judge for disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent, and (2) censure or remove a judge for action occurring not more than 6 years prior to the commencement of the current term that constitutes willful misconduct in office, willful and persistent failure to perform duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

III. ELECTIONS.

A. Suffrage.

CITIZEN-ELECTOR-VOTER.

- ▶ A citizen is one who, as a member of a nation or of a body politic or sovereign, owes allegiance to and may claim reciprocal protection from the government.
- ▶ An elector is one who has the right to vote for the election of public officers or for the adoption of any measure.
- ▶ A voter is one who has qualified to vote and therefore is permitted to exercise the right to vote as an elector.

Consequently, it is possible for a person to be a citizen and yet perhaps not be either an elector or a voter. Likewise, a person may well be an elector but not a voter, but, as we shall see, if a person is a voter, then the individual is an elector and a citizen.

PREREQUISITES. The first prerequisite of an elector is that the elector be either a native or a naturalized citizen of the United States and be eighteen years of age or over. In addition, in order to exercise the elective franchise at any particular election, the person must have resided within California for one year, within the county for ninety days, and within the election precinct for 30 days prior to an election. For the purpose of voting, no person gains or loses a residence while employed in the service of the United States, nor engaged in navigation, nor while a student at any school, nor while confined in any public institution. While there are no property qualifications in order to be an elector, there are certain other limitations. The privileges of an elector in this state can never be exercised by an alien ineligible to citizenship, an idiot, an insane

person, a person convicted of an infamous crime, a person convicted of embezzlement or misappropriation of public money, or a person unable to read the Constitution in the English language and unable to write his or her name.

STATE-CONFERRED PRIVILEGE. The Federal Constitution does not give the right of suffrage to any person. Suffrage is a privilege which may be either given or withheld by the state. Consequently, the state has the right to prescribe any qualifications, such as the above, that it may proscribe, subject only, however, to the limitations imposed by the Federal Constitution prohibiting the states from denying any citizen of the United States the right to vote by reason of race, color, sex, or previous condition of servitude. The federal government determines the qualifications for voting in elections for federal officials. The age requirement has been reduced to 18 years in both state and federal elections.

ABSENTEE VOTING SYSTEM Formerly, the suffrage privilege had to be exercised in person at the voting polls on Election Day. However, now we have what is known as the “absentee voting system,” whereby a duly registered voter may cast their vote prior to the day on which the election is to be held, if they expect to be absent by reason of physical disability from the precinct, or are unable to vote on the day of the election. The preceding discussion is applicable only to the exercise and the right of suffrage at governmental or political elections and is not necessarily applicable to special elections in institutional areas, such as irrigation or water districts.

B. Registration.

GREAT REGISTER-TEMPORARY. In order for an elector to qualify as a voter it is necessary to properly register. Formerly, the county clerk in each county kept a large book known as the “Great Register,” in which an elector signed their name and address. Registration under this system was merely temporary, so that a person had to re-register every even numbered year.

AFFIDAVITS OF REGISTRATION-PERMANENT. Today we have a permanent system of registration so that if a person once registers, subsequent registration is not necessary; provided, however, that the person retain the same residence and votes at the general election. Instead of using the Great Register, there are now used Affidavits of Registration which are executed in duplicate by the elector. An Affidavit of Registration states the name of the elector, the residence, occupation, place of birth, how citizenship was acquired, confirms the ability to read the Constitution in English and to write the elector’s name, statements as to any physical defects or deformities and, at the elector’s option, the preferred political affiliation. If the person is eighteen years of age or over, the specific age need not be stated.

C. Political Parties.

DEFINED. A political party is an organization of electors which has qualified to participate in any primary election. It is organized for the purpose of promulgating a political platform and formulating governmental policies.

ORGANIZATION. A political organization is qualified as a party if it complies with any one of the following four conditions:

- ▶ If, at the last gubernatorial election, any of its candidates for a Statewide office received at least three percent of the entire vote cast in the State; or
- ▶ If, at the last gubernatorial election any one of its candidates for a Statewide office was also the joint candidate of that party and any other party and received at least six percent of the entire vote cast in the State; or

- ▶ If registered electors, equal to at least one percent of the entire number of votes cast at the last gubernatorial election, have declared, at the time registration, their intention to affiliate with such political party or organization; or
- ▶ If a petition is filed with the Secretary of State, signed by registered electors, equal to at least the percent of the entire number of votes cast at the last gubernatorial election. The petition must declare that the signers thereto represent a political party organization therein named, and that said signers desire to participate as a party in the primary election.

PARTY CONVENTION. If an organization is qualified as a political party, then at the primary election delegates are selected to attend the party convention, which meets following the primary election and prior to the general November election. The party proceeds to elect permanent officers and then adopts for its party a platform setting forth the party's aims, purposes and policies. Its remaining primary function is to nominate, as the candidates of its party, the required number of presidential and vice-presidential electors and certify their names to the Secretary of State so that these electoral candidates may be placed upon the ballot at the general November election.

D. Nominations.

CONVENTION SYSTEM. Prior to 1913, candidates for the various elective state offices were selected and nominated by the delegates of the political parties at their conventions. This was known as the convention system.

DIRECT PRIMARY. In 1913, pursuant to Constitutional authority, the legislature enacted the direct primary law under the provisions of which the qualified electors of this state, who have signified at the time of their registration their political affiliations, select their party nominees directly by means of a primary election.

THE TOP TWO PRIMARIES ACT OF 2010. Proposition 14, otherwise known as the "Top Two Primaries Act of 2010," changed the way that primary and general elections are conducted for all partisan statewide offices in California (including the seven Constitutional Offices, the Senate and Assembly, the State Board of Equalization) and the US Senate and US House of Representatives. Proposition 14's changes to California's primary system do not affect the election of President and Vice-President of the United States. Thus, for all elective offices other than President and Vice President of the United States, instead of a closed primary system (in which each political party would hold a party primary election open only to registered party members to determine its nominee candidate for the general election), as of January 1, 2011, the passage of Proposition 14 in the June 2010 election creates a single primary ballot that is identical for all voters. All candidates running in the primary election, regardless of the candidate's registered political party identification (if any), will appear on the open primary ballot. The two candidates for any particular office receiving the most votes in the primary, regardless of party affiliation, will qualify for the general election.

DECLARATION OF CANDIDACY-SPONSORS-VERIFICATION DEPUTIES. Under the provisions of the primary law as first enacted, in order to be nominated as a candidate so as to have one's name placed on the ballot at a primary election, it was necessary to circulate a nomination paper and obtain signatures thereon, equal in number to a certain percentage of the total number of votes cast for the particular office sought at the last regular election. However, we now operate under what is commonly known as the sponsor system. Under the sponsor system any person seeking the candidacy of any party for a particular office may do so in a much simpler manner. The first step is to appoint verification deputies within any county in which the candidate desires to circulate a nominating paper. Verification deputies then secure the signatures of sponsors to the candidate's nomination. The proposed nominee then executes

document known as a declaration of candidacy. The candidate declares as a candidate of a particular political party for nomination to a particular office. Alternatively, any five qualified electors within a county may propose a particular person as a candidate. In this case, these persons must also appoint verification deputies. It is then necessary for the person whose candidacy is proposed to execute a document declaring that the person accepts the nomination. In either case, after verification deputies have been appointed and a person's candidacy has been declared, it is then necessary to circulate a paper known as the nomination petition on which the signatures of sponsors must be obtained. In order to be a sponsor a person must be a qualified elector within the particular area within which the nomination paper is circulated.

If a person is a candidate for a statewide office or for the United States Senate, then the nomination paper must be signed by not less than sixty-five or more than one hundred sponsors. For candidates for the United State House of Representatives, the State Board of Equalization, State Senate or Assembly, or for any office voted for in more than one county, but not statewide, then the nomination paper must be signed by not less than forty nor more than sixty sponsors. If a person is a candidate for any county office, then the nomination paper must be signed by not less than twenty or more than thirty sponsors. In other cases, where a candidate is to be voted for at a primary election, the nomination petition must be signed by not less than ten nor are more than twenty sponsors, if there less than 150 voters involved.

All of these documents must then be filed, at least 88 days before the primary election, with the county clerk, acting as the registrar of voters, of the county in which the signatures are executed. Thereafter, all declarations of candidacy and sponsor certificates of nominees to office, to be voted for in more than one county, are forwarded by the county clerk to the Secretary of State.

E. Filing Fees. The legislature has established certain scheduled fees to be charged and collected at the time the above mentioned papers are presented for filing.

(1) Candidates for statewide office or for the United States Senate must pay a filing fee equal to two percent of the first year's salary for such office.

(2). Candidates for the office of Representative in Congress, for the office of judge of the Superior Court, the District Attorney, the office of the State Senate or Assembly, or for any State office voted for in more than one county, must pay a filing fee equal to one percent of the first year's salary for such office.

(3). Candidates for any office to be voted for only within one county or a part of county must pay a filing fee of \$10.

F. Completion of the Nominating Process.

CERTIFICATION. It is the duty of the county clerk to examine within five days after filing the candidacy documents as to the sufficiency and genuineness of the signatures. The county clerk in each of the counties in which papers have been filed then certifies the result of the examination to the Secretary of State as to all candidates who are seeking an office which is to be voted for in more than one county.

NON-PARTISAN NOMINEES. The candidates for non-partisan offices are nominated in the same manner as above outlined with the exception that a non-partisan candidate omits in all filed declarations and nomination papers any reference to party affiliations.

WHEN NOT APPLICABLE. The direct primary law is not applicable to recall elections or special elections to fill vacancies nor to independent candidates nominated subsequent to the primary election.

G. Primary Election.

California's 2008 primary election was held on the first Tuesday of February. Formerly, the primary was held on the first Tuesday after the first Monday in June of every even numbered year. Now, in an effort to move-up the primary dates for Presidential elections, and to coincide with dates selected by a number of other states, the primary election date can be held as early as February of the general election year, as set by the state party officials working with the Secretary of State. The candidates to be voted for at the primary election are placed on the ballot in the manner above outlined. Formerly, party rules determined whether or not cross-over votes would be permitted in primary elections. For example, in 2008, only those persons who indicated their political affiliations as Republicans at the time they registered to vote were permitted to participate in the primary election of Republican partisan candidates. Under the Top Two Primaries Act of 2010, all qualified electors, by contrast, may participate in the primary election for the nomination of candidates for all partisan offices other than President and Vice President of the United States.

Prior to the primary election there is then printed, published and distributed to the qualified electors within the State, sample ballots together with a pamphlet containing information about the election. Where formerly separate ballots were used at the primary election for candidates of each political party, now one general primary ballot is made available to all registered voters regardless of party registration. Consequently, as with the non-partisan portion of the ballot, after January 1, 2011, the primary ballot given to all primary voters in California (for both party affiliated and independent voters) for all partisan offices other than President and Vice-President of the United States will contain all the candidates for both partisan and non-partisan offices such as judicial, school, county and district offices in the order named.

Effectively, in the wake of the passage of the Top Two Primaries Act of 2010, the purpose of the primary election is now to select the top two candidates whose names are to appear on the ballot at the ensuing general election. The principal design of the Act was to eliminate all write-in candidates in the General Election. Consequently, the two individuals receiving the highest number of votes at a primary election, regardless of party registration or affiliation, will become the final two candidates for the office listed on the final ballot at the general election.

In the case of non-partisan offices, such as judicial, school, county or district offices, the candidates equal in number to twice the number to be elected to such office, who receive the highest number of votes cast on all the ballots of all the voters participating in the primary election for nomination to such office, become candidates for such office at the ensuing general election and their names are placed on the official ballot. If in a primary election any candidate for judicial, school, county district or other non-partisan office receives a majority vote of all the ballots cast for candidates for the office being sought, that person is then declared elected to that office, without the necessity of participating in the general election and the office does not appear on the general election ballot.

H. General Election.

The general election is held on the first Tuesday after the first Monday in November of every even numbered year. The candidates whose names appear on the ballots of this election will be selected based on the Top Two System primary election results.

At the general election only one type of ballot is used, which everyone receives. The names of the candidates are listed under the respective offices which each candidate seeks. Following the names is a statement of political affiliations for candidates for a partisan office. The votes are then cast and canvassed and the candidate who receives the highest number of votes for each particular office is declared elected thereto.

I. Presidential Election.

The presidential primary election is held every four years. At this election, members of various political parties elect state delegates to attend their national party conventions. At these national party conventions political parties select and nominate candidates for the Presidency and Vice-Presidency of the United States. At the ensuing state general election, qualified electors select persons who are designated as presidential electors. These presidential electors, together with the presidential electors selected in the other states thereafter meet in what is known as the Electoral College. The Electoral College members vote upon the candidates proposed by the various national party conventions, and the persons so elected become the President and Vice-President of the United States.

J. Conduct of Election.

At least 44 days before a general election or at least 84 days before any special election the Governor must issue an election proclamation and transmit copies thereof to the boards of supervisors of the various counties in this state. The proclamation must contain a statement of the time of the election and the offices to be filled; and further, it must contain a monetary reward offer for the arrest and conviction of any person violating any laws of this state concerning the elective franchise. The election proclamation is then published by the board of supervisors within the respective counties. If the election is a county or district election then the boards of supervisors issue the original election proclamation containing the same statements as those required to be issued by the Governor for state elections. The manner in which votes are cast at the polling place and the functions of the election officers in each polling place are discussed at length in Part II of this Manual. Votes cast for state and district officers are forwarded to the Secretary of State who canvasses the returns for such state and district offices. If at any election (except the primary) two or more persons receive an equal and the highest number of votes for a particular office, then the tie is determined by lot except that for the Governor or Lieutenant Governor the Legislature, by a joint vote of both houses, chooses one of the persons to fill the office. Upon being elected to any particular office, the person must then take the oath which is in the same form as the oath required for city officers; and further, must furnish a bond to secure the faithful performance of the duties of the office.

K. Campaign Expenses.

The law imposes certain requirements governing election campaign expenditures (and receipts) for candidates, committees, and measures.

1. Definitions.

(a) Candidate means any person who seeks nomination or election to a federal, state, county, judicial, district, or municipal office at any election or primary within this State.

(b) Committee means a group of persons organized for the purpose of conducting an election campaign of any political party or candidate.

(c) Measure means any Constitutional amendment or other proposition (including initiative, referendum, or recall petition) submitted to a popular vote at any election.

2. Campaign Statements.

All candidates, committees, and persons working for or against measures must file an itemized statement of all moneys received and all expenses incurred in connection with the election campaign.

3. Time of Filing.

Campaign statements of candidates and committees must be filed within 35 days after the election or primary or not later than the day preceding the day upon which the candidate takes

office, whichever first occurs. The campaign statement pertaining to a measure must be filed not later than 35 days either after it has been qualified for the ballot by the Secretary of State or after the final deadline for circulating the petition if it does not qualify for the ballot. Furthermore, as to other measures such statement must be filed not more than 45 days nor less than 40 days prior to the election.

4. Place of Filing.

One copy of the campaign statement must be filed in the office of the Secretary of State and another copy in the office of the county clerk of the county where the candidate resides for the following offices: any statewide office or political subdivision greater than the county, state senators and assemblymen, federal senators and congressmen, members of the State Board of Equalization, and superior court judges. Candidates for all other offices (except municipal) file their statements in the office of the county clerk where the election is held. Candidates for municipal offices file their statements in the city clerk's office of the city in which the election is held. Statements pertaining to measure are likewise filed with the Secretary of State for statewide measures, the county clerk for county elections, and the city clerk for city elections.

5. Certificates.

No officer shall issue any certificate of nomination or election to any person until the campaign statement has been filed. The superior court has jurisdiction to grant relief where campaign statements are either incorrectly prepared and submitted or are not timely filed.

6. Presentment and Payment of Claims.

(a) Candidates. Any claim for expenses incurred by a candidate must be presented within 10 days after the election date (or it is not collectible) and paid within 25 days after the election date.

(b) Committees. Any claim for expenses incurred by a committee must be present within 15 days after the election date (or it is not collectible) and paid within 25 days after the election date.

IV. REMOVAL.

A. Resignation.

Any state official may resign from office by delivering a written resignation to the proper officer. The Governor and Lieutenant Governor must submit their resignation to the legislature, if it is in session, and if not, then to the Secretary of State. All officers who are commissioned by the Governor must deliver their resignations to the Governor. The state senators and members of the assembly may resign by delivering their resignations to the presiding officer of their respective houses, who must immediately transmit the same to the Governor. In all other cases, the resignation must be filed in the office of the Secretary of State.

B. Impeachment.

State officers elected on a statewide basis, members of the State Board of Equalization, and judges of state courts are subject to impeachment for misconduct in office. Impeachment proceedings are initiated by a resolution adopted by the assembly, which prepares articles of impeachment. These articles are then presented to the senate which sits as a court of impeachment, for the purpose of the trial of the accused official.

The accused official is given an opportunity to appear and defend themselves in the trial by the senate. Conviction requires the concurrence of two-thirds of the members elected to the senate. After conviction a judgment is pronounced by the senate in the form of a resolution. This resolution must be adopted by a majority of the members present who voted on the question of acquittal or conviction. The judgment may be either that the officer be removed from office and thereafter disqualified to hold any office of trust and profit in California, or merely that the

officer be suspended during the continuance of the term and disqualified from receiving any further salary or any emoluments of office thereafter.

As soon as the articles of impeachment against any officer are presented to the senate the officer is temporarily suspended from office and cannot act thereafter in an official capacity until a judgment of acquittal. The office meanwhile is filled by appointment by the Governor, acting with the advice and consent of the senate. This appointee holds office until the incumbent is either acquitted, or in the case of conviction, removal and then until the vacancy is filled at the next election. Impeachment proceedings do not bar the institution of any criminal action against the officer so impeached.

C. Recall.

The state Constitution reserves to the electors of the state the power to remove or recall any elective state officer, providing that the particular officer has held office for at least six months and that there have been no other recall proceedings against the officer within the preceding six month period. However, any member of either the senate or the assembly may be subjected to recall proceedings five days after the commencement of the legislative session following their election to the legislature.

The petition instituting the recall proceedings must be signed by qualified electors of the state, equal in number to at least twelve percent of the entire number of votes cast for all candidates within the state for the particular office concerned at the last general election. However, this petition must be circulated in at least five counties and shall be signed in each of said five counties by electors equal in number to not less than one percent of the entire number of votes cast in each of said counties at the last general election. If the officer sought to be removed is a state officer who is elected in any political subdivision of the state rather than in the state at large, such as members of the legislature, then the petition must be signed by electors equal in number to at least twenty percent of the votes cast in the district for the office

The petition must contain a general statement of the grounds on which the removal is sought so as to properly inform the electors. At the time the petition is circulated for signatures the qualified electors signing the same must also add following their signatures, the place of their residence and the date of their signing. To the petition must be attached an affidavit by the person who circulated the same to the effect that the circulator witnessed the electors as they signed the petition, and that to the best of then affiant's information said signatures are genuine. The election precinct of each signer must appear after the signature.

The recall petition is then filed with the county clerk in each of the respective counties in which the petition has been circulated. Each county clerk then examines within twenty days after the petition has been filed, the genuineness of the signatures and the sufficiency of the number thereof. The results of this examination are stated in a certificate affixed to the petition and it is then forwarded to the Secretary of State. Within forty days thereafter it is possible to file a supplemental petition containing additional signatures if necessary to meet the percentage required. Such supplemental petitions also require an examination by the county clerk of the respective counties, and the results must be filed within ten days thereafter with the Secretary of State. This latter officer then certifies the results of all petitions for recall filed in the office, to the Governor, who must call a special election in not less than sixty days or more than eighty days from the date the certification is received from the Secretary of State.

Not later than twenty-five (25) days prior to the date of the special election, petitions may be filed with the Secretary of State, nominating candidates for the office, should the incumbent be recalled. Such nominating petitions must be signed by electors equal in number to one percent of the total number of votes cast for that particular office at the last regular election.

The official ballots used, at such special recall elections, contain a statement, in not more than two hundred words, of the reasons for demanding the officer's recall, and another statement, in not more the three hundred words, setting forth the officer's justification in the course of conduct. Following these statements there is printed the question, "Shall be recalled from the office of ? Yes No"

Under this question, are printed the names of the persons who have been nominated as candidates to succeed the person now in office if removed by the recall election. However, the person whom the people are seeking to recall cannot also be named as a candidate on the ballot to succeed themselves. A person must indicate their vote by stamping a cross (x) in the blank space following either the yes or no. If not, then the vote, if any, cast for any of the candidates for that office cannot be counted.

If a majority vote in favor of the recall of the incumbent from office, then the candidate who has received the highest number of votes for that office is declared elected for the remainder of the term. If the officer whose removal is sought is not recalled, the officer must be repaid, from the state treasury, the amount of money which has been legally expended as expenses in defending the office at such election.

In case the Governor is the officer whose recall is sought, then the duties incident to recall proceedings must be performed by the Lieutenant Governor, and in the same manner the Controller performs the duties incident to recall proceeding when the Secretary of State is the officer whose recall is sought.

V. BOARD OF EQUALIZATION

When California became a state in 1850, property taxes funded all levels of government. The voters adopted a system used widely around the world whereby the government establishes the needed revenue amount, the assessor determines taxable property values, and the tax rate becomes simply the required revenue divided by the total assessable value. Basing taxes on property value was originally seen as fair and equitable since the benefits of government were thought to primarily help property owners.

As California began to implement a business tax (franchise tax), a personal income tax, and sales taxes between 1911 and 1935 to fund state government revenue needs, the property tax evolved into a system for funding the operations of local governments and education. Beginning in 1911, unincorporated areas and rural counties began to create special assessment districts to provide roads, water, electricity, and other essential services that were not being funded by the state government. These districts issued bonds to finance construction that were backed by liens against real property in the particular district. The result of these changes was a local revenue system that was based on the value of property in a given area, with additional charges for services and bond repayment or local districts that provided services to property owners.

The California State Board of Equalization was established under the state constitution in 1879 to regulate county property assessment practices, equalize county assessment ratios, and assess railroad properties. Progressively over time, the Board's responsibilities have expanded into overseeing many different state and local tax collection programs. The Board also coordinates exemption and tax relief programs for seniors and disabled persons who are not able to afford to pay the full assessed property tax amount. The California Board of Equalization consists of 5 members. California is divided into four geographic districts, each of which vote separately for the representative from their own district. Those members serve four year terms. The fifth Board Member is the State Controller. The main functions of the California Board of Equalization today are:

- To ensure uniformity in the administration of property tax assessments.

- ▶ To oversee the administration of dozens of tax and fee programs, including sales, fuel, tobacco, and alcohol taxes.
- ▶ To serve as the appellate body for California income and business tax cases.