



# **CAPC Trustee Reference Manual**

For Governing Boards of  
Public Cemetery Districts in California

## **Preface**

### **ABOUT THE CALIFORNIA ASSOCIATION OF PUBLIC CEMETERIES**

The objectives of this Association are to promote cooperation among those directly and indirectly concerned with and interested in the operation of public cemeteries and related subjects, to stimulate the development of improved methods and procedures, to disseminate information in relation thereto, to publish or cause to be published a minimum of one Newsletter per quarter, to be distributed to all members, and to foster the education of the governing boards and administrative personnel of public cemeteries in better methods of operation and matters of mutual interest

### **Mission Statement**

Dedicated to promoting the development of Public Cemetery Districts and Public Cemetery governance through cooperative and interactive communication, education, and legislative advocacy.

### **Introduction**

This Trustee Reference Manual has been prepared for trustees of public cemetery districts in California.

The purpose of the manual is to provide a basic overview and function of such districts, and to outline the primary responsibilities of the trustees serving on their respective boards.

This reference manual is a compilation of laws, regulations, Grand Jury reports, news articles and other reference materials compiled from around the State of California.

Where applicable a reference to the related statute is provided for context. There are more law references, and this document cannot provide all references due to size limitations.

This manual is not a substitute for legal advice, and it should not be construed as legal advice.

# History of Cemetery Districts in California

## Inception of Public Cemeteries in California

Public Cemetery District Law was enacted into law on March 6, 1909, to address the need to serve residents of the state by providing for a low-cost burial option for residents. The Legislature specifically declared, “There is a continuing need to provide for the respectful and cost-effective interment of human remains to meet the cultural, economic, religious, and social needs of California’s diverse communities.” (Health and Safety Code §9001(a)(1).)

Public cemeteries are among the earliest and oldest public facilities in the state and were in existence prior to the enactment of the first public cemetery district law in 1909. Public cemetery districts are organized and have powers pursuant to Division 8 of the California Health and Safety Code specifically pursuant to the Public Cemetery District Law (Health and Safety Code §9000 et seq.). This law was revised and codified effective January 1, 2004.

Public cemetery districts are special districts that are legally separate from any other local government entities. A governing body composed of three or five members is solely responsible for oversight of district operations. Trustees, who must be registered voters within the district, are appointed by a county board of supervisors to fixed, four-year terms of office. Alternatively, a board of supervisors can appoint itself as the board of trustees.

Today, there are 256 public cemetery districts in California. Cemetery districts rank fourth in the total number of special districts in California, behind water districts, fire districts and community services districts. With consolidation of districts becoming more apparent, there is a shift to conjoin districts to better address growing budget encumbrances and fiscal reliabilities.

## Present and future challenge:

Fiscal challenges facing public cemetery districts start with market conditions. Public cemeteries do not hold monopoly on service authority as do other special districts. While ranking as fourth in the number of districts, public cemetery districts receive far less of a tax apportionment percentage than do other special districts. Existing public cemetery districts face market pressures from private providers usually not associated with the delivery of most other governmental services.

Costs and the complexity of operations as well as ever growing regulations are putting fiscal restrictions on districts.

The rising cost of land acquisition development and improvements of existing facilities further erode the cemetery district's ability to compete in a market driven sector. Costs associated with employment operations also continues to grow with no ability to enjoin other districts in tax apportionment increases. Restrictions leveled against public cemeteries versus private counterparts many times show amenities offered by a public agency are far less available with public providers since costs associated with potential improvements are far more given the public nature of the project. Consider the costs associated with a repaving project. Prevailing wage restrictions means the agency will likely pay double the cost over their private cemetery competitors.

## **Community and Intergovernmental Relations**

### **Meeting Community Interest**

As a trustee on the board of your district, you have committed to serve the best interests of the community at-large provide services that are essential to the community and represent residents of the entire district. You have several responsibilities as a trustee, which include setting district policies, direction, and establishing strategic goals and objectives. This requires a close working relationship with many local, state, and federal agencies and involvement with professional associations such as CAPC.

The evolving complexity of governmental agencies with their increased regulatory powers may influence district operations. At the same time, the changing views regarding property taxation lead to additional responsibilities for trustee discussions and actions, creating a need for higher levels of community involvement, public relations, and outreach.

There are many agencies and interests with whom districts should cooperate in order to fulfill their responsibilities to the public. Although management is principally involved in such relations, trustees can frequently be very effective in contacts with stakeholders that they represent. In this capacity, a trustee operates within guidelines established by the district's Board of Trustees, and in conjunction or consultation with the manager.

There exists a continuous need for districts to provide public awareness of the district's mission and the benefits to the community residents. Although an agency may provide excellent essential services, the lack of public awareness may create an under appreciation of the district's mission. Trustees may play a central role in publicly describing the mission, processes, and operations which result in the district successfully satisfying its public role.

### **California Special District Association (CSDA)**

The California Special District Association represents special districts in California. There are many types of special districts providing services to Californians such as

water, fire protection, utilities, cemetery, municipal services, mosquito and vector control and others. The CSDA provides services such as legislative advocacy, information, representation on governmental committees, education programs and management resources. The CSDA promotes, through media and public education campaigns, special districts as one of the best types of government for local services.

The CSDA Special District Governance Academy is specifically designed for special district governing board members. The areas covered include; fundamentals of governance, strategic planning, community leadership, finance, human resources and the governing board's role in the operation of the district.

### **Local Agency Formation Commission (LAFCO)**

The Local Agency Formation Commission is an independent agency created by the State Legislature in 1963 to provide for growth and development planning, especially as it pertains to local service delivery, within each county. Public cemetery districts must go through their local LAFCO on any issues involving changes in their boundaries and/or the exercise of new powers.

## **District Governing Boards**

### **Appointed Representatives**

The County Board of Supervisors provides for the appointment of trustee representatives to form a district governing board (known as the Board of Trustees) of not more than five members. Some senior districts still adhere to the three appointed trustee standard. All members of the board of trustees must be electors and residents of the appointing district. Trustees are appointed to staggered terms by the Board of Supervisors.

- **H&S 9020. A legislative body of at least three members known as the board of trustees shall govern every district. The board of trustees shall establish policies for the operation of the district. The board of trustees shall provide for the faithful implementation of those policies which is the responsibility of the employees of the district.**
- **H&S 9022. (a) Each person appointed by a board of supervisors to be a member of a board of trustees shall be a voter in the district.**  
  
**(b) All trustees shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of this part. The trustees shall represent the interests of the public as a whole and not solely the interests of the board of supervisors that appointed them.**

## Terms of Office

Trustees are appointed to staggered four-year terms. (Health and Safety Code section 9024.)

A trustee may be removed from office before expiration of his or her term only in limited circumstances:

- (a) upon resignation, death, or conviction of certain public integrity crimes.
- (b) for willful or corrupt misconduct in office; or
- (c) upon the occurrence of certain specified events that creates a vacancy in the office.

A trustee cannot be removed at will by the appointing authority prior to expiration of his or her term of office. Likewise, an individual trustee cannot be removed by the district board of trustees:

- **H&S 9024. (a) Except as provided in subdivision (b) of this section, subdivision (c) of and subdivision (d) of Section 9026, the term of office for a member of the board of trustees shall be for a term of four years and until the appointment and qualification of the successor. Terms of office commence at noon on the first Monday in January. For districts formed before January 1, 2004, where the members of the board of trustees are not serving staggered terms, the board of supervisors shall stagger the terms of the trustees and to accomplish this purpose shall appoint trustees, on or after January 1, 2004, for terms of less than four years. However, a board of supervisors shall not reduce the term of office of a trustee once the trustee has been appointed to that term, whether the appointment was made before, on, or after January 1, 2004.**

## Trustee Stipend, Expense Reimbursement and Benefits

A district board of trustees may provide and pay for health and welfare benefits (e.g., medical and dental insurance) to current trustees if the benefits are the same as those offered to large numbers of district employees. The benefits provided to trustees can be no greater than those received by regular district employees.

For districts that participate in the Public Employees Retirement System (PERS), the district trustees are not entitled to participate in the retirement plan. For districts that participate in other retirement plans, trustee eligibility would be governed by the laws and plan documents that govern the retirement plan; however, it is doubtful that a trustee would be eligible.

Of additional note within this section is the “Day of Service” provision of law. This restricts a Trustee’s perceived power of operations and limits any and all hierarchical oversight to the dais. There are no individual powers delineated to the Trustee and the decision-making body must act as a group during a legal and properly agendized meeting.

- **H&S 9024. (a)** The board of trustees may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board. A member of the board of trustees shall not receive compensation for more than six meetings of the board in a calendar month. Commencing January 1, 2019, if the district compensates its members for more than four meetings in a calendar month, the board of trustees shall annually adopt a written policy describing, based on a finding supported by substantial evidence, why more than four meetings per calendar month are necessary for the effective operation of the district.
  - (b)** The board of trustees, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.
  - (c)** In addition, members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business other than a meeting of the board.
  - (d)** A member of the board of trustees may waive any or all of the payments permitted by this section.
  - (e)** For the purposes of this section, a meeting of the board of trustees includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.
  - (f)** For purposes of this section, the determination of whether a trustee's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- **Cal Gov Code 61047 (a)** The board of directors may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for each day of service. A member of the board of directors shall not receive compensation for more than six days of service in a month.
  - (b)** The board of directors, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation that may be received by members of the board of directors.
  - (c)** The board of directors may provide, by ordinance or resolution, that its members may receive their actual and necessary traveling and incidental expenses incurred while on official business. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3.



(d) A member of the board of directors may waive any or all of the payments permitted by this section.

(e) For the purposes of this section, a “day of service” means any of the following:

(1) A meeting conducted pursuant to the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

(2) Representation of the district at a public event, provided that the board of directors has previously approved the member’s representation at a board of directors’ meeting and that the member delivers a written report to the board of directors regarding the member’s representation at the next board of directors’ meeting following the public event.

(3) Representation of the district at a public meeting or a public hearing conducted by another public agency, provided that the board of directors has previously approved the member’s representation at a board of directors’ meeting and that the member delivers a written report to the board of directors regarding the member’s representation at the next board of directors’ meeting following the public meeting or public hearing.

(4) Representation of the district at a meeting of a public benefit nonprofit corporation on whose board the district has membership, provided that the board of directors has previously approved the member’s representation at a board of directors’ meeting and the member delivers a written report to the board of directors regarding the member’s representation at the next board of directors’ meeting following the corporation’s meeting.

(5) Participation in a training program on a topic that is directly related to the district, provided that the board of directors has previously approved the member’s participation at a board of directors’ meeting, and that the member delivers a written report to the board of directors regarding the member’s participation at the next board of directors’ meeting following the training program.

## **Election of Board Officers**

In January of every year or every other year (as determined by the board of trustees), the board must elect a chairperson, vice chairperson and a secretary to provide for district organization. The president must be a trustee. The secretary may be either a trustee or a district employee. Many districts also elect a vice chairperson and find it advisable to establish procedures for election succession and term limits of board officers. Boards that invest outside their county pool must also elect a treasurer as part of its investment policy.

- **H&S 9028 (b)** The officers of a board of trustees are a chairperson, vice chairperson, and a secretary. The chairperson and vice chairperson shall be trustees. The secretary may be either a trustee or a district employee. A board of trustees may create additional officers and elect members to those positions. No trustee shall



**hold more than one office.**

## **Board Meetings**

The district board must establish a time and place to hold its regular meetings and rules of procedure for these meetings based upon current applicable statutes and regulations. The board meeting location must also be held within the boundaries of the district and must be ADA accessible.

- **H&S 9029. A board of trustees shall meet at least once every three months. Meetings of the board of trustees are subject to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.**

## **Board Voting**

The board of trustees may act only by ordinance, resolution, or motion. A majority of the board constitutes a quorum for the transaction of business. Except as otherwise provided by statute, a recorded vote of a majority of those trustees present and voting (i.e., majority of a quorum) is required for the board to take action.

- **Ca. Gov. Code 61045 (b) The board of directors shall act only by ordinance, resolution, or motion.**

## **Trustee Responsibilities and Liabilities**

State law requires trustees to exercise their independent judgment on behalf of the interests of the residents and the public as a whole (and not solely the interests of the board of supervisors that appointed them) when serving on a board of trustees.

The Ralph M. Brown Act (open meeting law) allows access by the public to business conducted by public agencies. Exceptions to public accessibility are provided for by allowing closed sessions related to specific items such as land negotiations, conferences with legal counsel regarding litigation, security, and certain employee matters, as defined in the act.

A conflict-of-interest code and financial disclosure requirements were instituted as part of the Government Code in 1976. Boards of trustees must adopt an approved conflict of interest code for their agency. It is required that all trustees and certain district employees file a financial disclosure statement (FPPC Form 700) in accordance with the Government Code and local code. The form must be filed when assuming office, annually, and when leaving office.

Enacted in 2004, AB 1825 requires employers to provide effective training to all supervisory employees on the prevention of sexual harassment, discrimination, and

retaliation. Passed a year later, AB 1234 requires mandatory ethics training for local officials. AB 1234 applies to those trustees who are compensated for their service or reimbursed for their expenses. AB 1825 likely applies to trustees if they hire, review and/or fire any employee (e.g., the manager); however, the statute is uncertain. To ensure compliance, trustees should complete the sexual harassment prevention and the ethics training every two years. A certificate of training should be issued stating the name of the trustee, date, instructor and topic and certifying that two hours of training occurred. Typically, CAPC offers such training at its annual conferences. Trustees are responsible for obtaining the certificates of completion and providing copies to their General Manager.

### **Liability for Acts and Omissions of Trustees**

There is a substantial body of law relating to local government agency liability for the acts and omissions of the agency's employees, officers, and board members. The liability and immunity of local government agencies is controlled principally by the Government Claims Act (Government Code Title 1, Division 3.6). The Act establishes the following basic principles:

- A government agency is immune from liability except as provided by statute.
- A government agency employee or officer (which includes district trustees) is liable for injuries caused by his or her act or omission to the same extent as a private person, except as otherwise provided by statute.
- A government agency may be vicariously liable for the injuries caused by its employees and officers.
- A government agency is immune from liability when its employee or officer is immune, except as otherwise provided by statute.

The Government Claims Act contains several immunities that shield trustees against liability in many situations. However, a trustee risks losing applicable immunities when he or she acts unilaterally, acts outside of duly noticed board and committee meetings, or takes individual action against or involving individual district employees.

In short, (a) to the extent that there is no immunity, a trustee can be liable for personal damages caused by his or her acts and omissions as a trustee, and (b) a district may be liable for the acts and omissions of its trustees to the same extent as its employees.

A district trustee generally may require the district to defend the trustee on claims and lawsuits arising out of an act or omission occurring within the scope of the trustee's service on the board, and to indemnify the trustee for judgments and settlements on those claims. However, the district may not have a duty to defend and indemnify the trustee if the claim arises out of the trustee's actual fraud, corruption, or malice, or if the trustee fails to reasonably cooperate in good faith with the district's defense of the claim or lawsuit. These principles enable trustees to discharge their duties in good faith without the concern that they might personally be forced to finance the defense of and pay judgments or settlements on claims arising out of their official duties.

There are special rules concerning liability for making or approving illegal or unauthorized expenditures. A trustee may be held personally liable for approving an expenditure of public funds when the expenditure is not authorized by law. However, if the trustee exercises due care in making an expenditure of public funds that is later deemed to be unauthorized, he or she generally will not be held personally liable for the amount of the expenditure. In order to determine whether or not a trustee exercised the requisite due care in making an unauthorized expenditure of public funds, the courts will consider the following factors: (a) whether the impropriety of the expenditure was reasonably obvious at the time of expenditure; (b) whether the trustee was somehow alerted to the possible impropriety of the expenditure before it was approved; and (c) whether the trustee relied on legal advice or an existing law in approving the expenditure.

### **Functions of the Boards of Trustees**

Establishing district administration and procedural guidelines is important to separate the functions of trustees from those of management. Decisions regarding policy and oversight of the finances, operation and administration of districts are the primary responsibility of boards of trustees. The district manager is primarily responsible for the implementation of adopted board policy and budget and the day-to-day service delivery. Generally all board direction should be provided to and through the manager and the trustees should avoid dealing directly with subordinate employees.

The primary functions of the board of trustees are the establishment of policies and guidelines for the administration and operation of the district, budget preparation, financial monitoring, strategic planning, and manager oversight and evaluation. The board employs the manager and delegates authority to the manager to execute the adopted policies and guidelines on a daily basis. The manager must communicate with the board and provide the information necessary to make informed decisions regarding such matters. Once policies are set, trustees must, both individually and collectively, recognize and respect the separation of the functions of the manager and the policy makers (board).

### **Trustee Communication**

Policy development and strategic planning can be achieved by utilizing trustee committees, in conjunction with the manager. Committees can be formed to address such items as budget and salary negotiations, finance, policy, future planning, capital improvements, and legislation, as well as other matters. These committees meet, confer, and recommend to the board the necessary action. Note that standing committees are subject to the Brown Act. The manager, in consultation with the board, then works with his or her staff to properly implement and apply the adopted resolutions, guidelines and policies. There should be no district business discussed outside of a publicly noticed meeting.

## Board Policies

A board of trustees should consider adopting appropriate policies and guidelines to govern the administration and operation of the board and district. Such policies and guidelines should include the following: board rules of proceedings (rules of decorum); employee or personnel manual and policies; rules for the administration of employer-employee relations and collective bargaining; employee and workplace safety policies; investment policy; warrant/check approval policy; credit card use policy; contract and expense authorization policy; policy and procedures for the purchase of supplies and equipment; local conflict of interest code; expense reimbursement policy; CEQA environmental review guidelines; claims presentation policy for Government Claims Act-exempt claims; records retention and destruction policy; and, other district-appropriate policies to guide a district and establish board member responsibilities.

## District Finance

### Required Practice and County Coordination

District finances are controlled at the local level and must conform to the accounting and budgeting procedures for special districts contained in Subchapters 3 (commencing with Section 1031.1) and 4 (commencing with Section 1121) of California Code of Regulations Title 2, Division 2, Chapter 2. The county treasury is usually the depository for district funds collected. The county treasurer invests the cash under policy guidelines established by the county. Credit risk information regarding the cash held by the county treasurer should be included in an annual report by the county. However, for a district that has total annual revenues greater than \$500,000, the district board may choose to withdraw its funds from the control of the county treasurer and establish its own treasurer, bank accounts, and accounting, audit and warrant/check procedures.

Districts may also be tied to other county offices and the State treasurer through participation in retirement plans, insurance, and various benefit programs.

### Endowment Care

Every public cemetery district location in the State of California is required to be an Endowment Care cemetery. All interments require the payment into a perpetual care fund where the principal is secured and shall not be spent. Annual interest received can be utilized for the care of the cemeteries in the districts care.

- **H&S 9065 (a) The board of trustees shall create an endowment care fund.**
- (b) The board of trustees shall require a payment into the endowment care fund for each interment right sold. The amount of the payment shall be not less than the minimum amounts set by Section 8738.**

- (c) The board of trustees may require a payment into the endowment care fund for each interment where no payment has previously been made. The amount of the payment shall be not less than the minimum amounts set by Section 8738.**
- (d) The board of trustees may pay into the endowment care fund any money from the district's general fund and from any other sources which is necessary or expedient to provide for the endowment care of the cemeteries owned by the district.**
- (e) The board of trustees shall not spend the principal of the endowment care fund.**
- (f) The board of trustees shall cause the income from the endowment care fund to be deposited in an endowment income fund and spent solely for the care of the cemeteries owned by the district.**

### **Significant Accounting Policies**

Government Accounting Standards Board [GASB], is an independent organization which establishes and improves standards of accounting and financial reporting for state and local governments. In 2004, GASB statement 45 was issued which applies to accounting and financial reporting for Postemployment Benefits Other Than Pensions [OPEB]. Districts may provide employee benefits, as part of a total compensations package, to attract and retain the services of qualified employees. OPEB includes postemployment healthcare, as well as other forms of postemployment benefits (for example, life insurance) when provided separately from a pension plan. This Statement establishes standards for the measurement, recognition, and display of OPEB expense/expenditures and related liabilities (assets), note disclosures, and, if applicable, required supplementary information (RSI) in the financial reports of state and local governmental employers.

GASB statement 54 was issued in 2009. GASB 54's objective is to enhance the usefulness of fund balance information by providing clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions. This Statement establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government is bound to observe constraints imposed upon the use of the resources reported in governmental funds.

The initial distinction that is made in reporting fund balance information is identifying amounts that are considered nonspendable, such as fund balance associated with inventories. This Statement also provides for additional classification as restricted, committed, assigned, and unassigned based on the relative strength of the constraints that control how specific amounts can be spent.

Trustee's districts are subject to these standards, for which Trustees should be aware and understand the potential financial implications to their district, or not.

### **Additional Financial Considerations**

For districts with finances maintained through the county treasurer, the districts are an integral part of their counties, and their financial statements are included as a component unit of the general-purpose financial statements prepared by each county. The counties perform certain administrative services such as maintenance of accounting records.

The accounts of districts are organized on the basis of funds and account groups, each of which is considered separate for accounting purposes. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues and expenditures as appropriate. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which the activities are controlled.

Standard classifications and numerical systems for revenue and disbursements were adopted for all counties of the State. The filing of annual financial reports to the State Controller is mandatory.

### **Revenue**

Districts obtain operational revenues through taxes, assessments, service charges, or a combination of such revenues. If tax supported, the auditor of each county in which a district is located shall allocate to the district its share of property tax revenue pursuant to the Revenue and Taxation Code. This is based on the State Legislature determining the method of distribution of receipts from a 1% Ad Valorem property tax levy among counties, cities, school districts and other special districts.

In 1996, California voters approved Proposition 218, which amended the California Constitution by adding new substantive and procedural requirements for the adoption of taxes, assessments, and property-related fees and charges. In 2010 California voters approved Proposition 26, which further restricts the ability of state and local governments to raise revenues to fund government services, facilities, and programs, by reclassifying certain fees and charges as taxes. Both propositions directly impact the ability of special districts to raise revenues.

### **Budgeting Process**

On or before August 1 of each year, the board of trustees must adopt a final budget, which shall conform to the accounting and budgeting procedures for special districts contained in Subchapter 3 of the California Code of Regulations Title 2, Division 2, Chapter. This process typically will take several months and it is wise to start the process



in spring even though the impact of the State budget process and results will not be available until later.

The board of trustees may divide the annual budget into specific categories. The board of trustees shall forward a copy of the final budget to the auditor of each county in which the district is located. Budgets are yearly expenditure guidelines for the future balanced against an estimated revenue schedule. Budget formation is a continuous process. The data and evaluation recorded in previous years provide greater reliability to the budget estimates for succeeding years. Budget formation is usually a review process for the board of trustees as staff members prepare the specific budget items.

### **Budgeted Reserves**

A district may establish restricted reserves for such things as contingencies, capital, development, and asset preservation. These funds, if not used, are not lost at the end of the fiscal year but are carried over into the next fiscal year thus aiding in offsetting budget increases and future development.

### **Internal Control Structure**

Management's responsibility for the internal control structure and the objectives of, and the inherent limitations in, the internal control structure are adapted from the Statements on Auditing Standards of the American Institute of Certified Public Accountants.

Management is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of the internal control structure policies and procedures.

The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of general purposes financial statements in accordance with generally accepted accounting principles.

### **Audits**

Trustees are responsible to not only review expenditures for the district and set policies relating to those expenditures, but also need to assure that proper audits of the district's accounting books are properly maintained and accurate. This is usually accomplished through an independent audit of the records, which must be done annually unless the district board and county board of supervisors have approved a different audit or financial review arrangement pursuant to Government Code section 26909. Audit reports should be presented annually at a board of trustee meeting. It is also good policy to consider



changing auditing companies, or at a minimum auditor within the firm, every several years, but recognizing it is also important to have an auditor develop a thorough understanding of the district's operation.

## **Personnel Relations**

In general, personnel management and relations are the responsibility of the manager of the district. The board does not usually become involved with the hiring, firing, or management of personnel other than the manager. It typically is the board of trustees' responsibility to hire and direct the manager and all other personnel are under the direction of the manager.

Personnel relations considered here are those for which the board of trustees has responsibility as prescribed by statute or adopted procedures for administrative purposes. These involve coping with employee associations or unions in the fields of wage and benefit negotiations, grievance hearings, and safety rules and provisions.

### **Supervision of the District Manager**

The most essential function of the district's board of trustees is the supervision of the District Manager. This includes all aspects of management from initial hiring, supervision, evaluation, and, if necessary, discipline. Hiring, supervision, and if necessary, termination, is accomplished while complying with State and Federal employment legislation, district policy and procedures and in compliance with the district manager's contract.

Manager evaluation is an ongoing effort by the board of trustees, and should be an accomplished annually, or as circumstances and/or policy dictates. Some boards, particularly those with many members, will delegate representatives from the board to review the District Managers performance and work with the manager on goal setting for the upcoming year. Since evaluation is a personnel matter, the meetings to review the manager may be held in closed session of the board of trustees.

Whenever disciplinary action is contemplated for either staff or the manager, the board of trustees should contact its legal counsel for guidance relating to necessary and proper procedures consistent with its adopted policy manual and contracts and applicable law.

- **Ca. Gov. Code 61045 (b) The board of directors shall act only by ordinance, resolution, or motion.**
- **Ca. Gov. Code 61051. The general manager shall be responsible for all of the following:**

**(a) The implementation of the policies established by the board of directors for the operation of the district.**

- (b) The appointment, supervision, discipline, and dismissal of the district's employees, consistent with the employee relations system established by the board of directors.**
- (c) The supervision of the district's facilities and services.**
- (d) The supervision of the district's finances.**

### **Employee Representation**

Employees of special districts are governmental workers. As such, they may be covered by employee collective bargaining statutes at both the state and federal levels.

Many districts have employee associations or unions that represent the employees in labor negotiations. The board of trustees is the legal entity within the district responsible for negotiations and agreements with those groups. Therefore, they have the responsibility to meet the provisions of the applicable statutes, utilizing the guidance and assistance of district management and legal counsel.

In the event of an employee grievance, which cannot be resolved by the district's management, the board of trustees is responsible for conducting grievance hearing, attempting to resolve the problem. District legal counsel should provide guidance, preventing either the process or the decision from violating current statutes and district policy and procedures.

- **H&S 9045 (a) The Myers-Milias-Brown Act, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code applies to all districts.**
- (b) A board of trustees may adopt an ordinance establishing an employee relations system that may include, but is not limited to, a civil service system or a merit system.**

### **Safety Requirements**

Employee safety programs are the responsibility of a district's board and management. Management staff implements the programs. Workplace safety is regulated by the federal and state Occupational Safety and Health Administration (OSHA). Severe penalties can be assessed against the district if serious violations exist. Worker safety must be a prime concern as district personnel may be exposed to potentially hazardous materials.

Current law requires each district to adopt, implement and monitor compliance with a variety of employee and workplace safety-related plans, including an illness and injury prevention plan (IIPP), code of safe practices, hazardous materials plan, emergency action plan, and fire prevention plan. Because worker safety laws are changed frequently, district boards and management should be familiar with the current legal requirements and provide oversight in order to ensure that the district's programs are current and properly implemented.

# Historic CALIFORNIA CEMETERY LAWS

## 1909 *Chapter 106.*

### *Public Cemetery Districts*

*An act to provide for public cemetery districts.*  
[Approved March 6, 1909.]

*The people of the State of California, represented in senate and  
assembly, do enact as follows:*

SECTION 1. Whenever a board of county supervisors shall receive the petition of a majority of the electors enumerated upon the great register as residing within a district in such county, definitely described in such petition, requesting that the said district be organized as a public cemetery district, they shall organize such public cemetery district as provided in this act.

SEC. 2. Such public cemetery district shall be managed by three trustees, appointed by the board of supervisors from the electors residing therein; but if a majority of the resident electors shall, in their petition, designate the names of the trustees whom they shall desire to be appointed, the board of supervisors shall appoint the persons so named. The trustees shall hold for four years, and their successors be appointed in like manner.

SEC. 3. Such cemetery trustees shall maintain a cemetery for the use of all inhabitants of the district, and for that purpose shall be capable of holding title to property in trust for the district, taking property by grant, gift, devise or any other method, and doing all acts necessary or proper for managing the affairs of the district, including the selling or leasing of burial lots.

SEC. 4. The said cemetery trustees may annually certify to the county board of supervisors the amount of money necessary to be raised by taxation for maintaining the cemetery of the district, and the board of county supervisors shall thereupon include in the annual tax levy a tax upon all the property within such cemetery district, sufficient to raise the amount demanded by the trustees, but not exceeding two mills on each dollar of assessed valuation within the district.

SEC. 5. The tax so collected, together with all other moneys received by the trustees shall be paid into the county treasury, and constitute a separate fund to be expended solely for the purposes of the cemetery district upon warrants signed by not less than two of the cemetery trustees.

SEC. 6. The trustees shall as soon after the first day of July in each year as is practicable, file with the county board of supervisors a report, setting forth all their doings during the preceding years, and containing an itemized account of all their receipts and disbursements up to and including the

thirtieth day of June, together with proper vouchers therefor.

SEC. 7. The trustees shall make proper rules and regulations for the management of the cemeteries under their control, and all laws now in existence relating to cemeteries, and not inconsistent with this act shall apply to the cemeteries provided for in this act.