

**SUMMARY OF AUTHORIZING LEGISLATION FOR WATER / WASTEWATER DESIGN/CONSTRUCTION/FINANCING/O&M,
AND AGGREGATION FOR LOCAL AGENCIES**

DESIGN, CONSTRUCTION, FINANCE, OPERATIONS AND MAINTENANCE AUTHORITY			
State	Citation	Type(s) of Authority	Explanation
CA	Government Code § 5956 et seq. ("Infrastructure Finance Act")	<input checked="" type="checkbox"/> Design and Construction <input checked="" type="checkbox"/> Private financing <input checked="" type="checkbox"/> Operations and Maintenance	<p>Authorizes a governmental agency (city, county, city and county, incl. chartered city or county, school district, community college district, public district, county board of education, joint powers authority, transportation commission or authority, or any other public or municipal corporation) to utilize private sector investment capital to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate, or any combination thereof, fee-producing infrastructure facilities.</p> <ul style="list-style-type: none"> • Authorization to solicit proposals and enter into agreements with private entities for the design, construction, or reconstruction by, and may lease to private entities for fee-producing infrastructure projects (for up to 35 years), including: <ul style="list-style-type: none"> — Drainage; — Water supply, treatment and distribution; — Sewerage treatment, disposal and water recycling. • Selection of contractor must be made pursuant to a competitive negotiation process (which does not require competitive bidding). • Allows for private infrastructure financing by a local governmental agency or a combination of local governmental agencies, as the exclusive source or as a supplemental revenue source with federal and/or local funds. Does not provide authority for "state projects" / funding including state water projects post

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			<p>January 1, 2020. A “state project” does not include a project financed through the State Water Pollution Control Revolving Fund (Water Code section 13477) or the Safe Drinking Water State Revolving Fund (Health and Safety Code section 116760.30).</p> <ul style="list-style-type: none"> Contemplates significant private participation in the financing, operation and maintenance of the facility.
	<p>Government Code § 54250 et seq. (“Local Government Privatization Act of 1985”)</p>	<p><input checked="" type="checkbox"/>Privatization</p>	<p>Authorizes a local agency (city, county, city and county, special district, or county service area) to authorize, grant, or enter into one or more exclusive or non-exclusive franchise, license, or service agreements with a “privatizer” (corporation, partnership or natural person, excluding municipal corporation, which owns and operates a wastewater or sewerage project pursuant to a franchise, license or service agreement with a local agency) for the design, ownership, financing, construction, maintenance, or operation of a “privatization project” (wastewater or sewerage project owned and operated by a corporation, partnership, or natural person pursuant to a franchise, license, or service agreement with a local agency).</p> <ul style="list-style-type: none"> Authority to contract with private entity for wastewater services supplied from a facility constructed and owned by the private entity, subject to approval by the California Public Utility Commission that the proposed privatization project is not a public utility.
	<p>Public Contract Code § 20194 (“Local Agency Public Construction Act”)</p>	<p><input checked="" type="checkbox"/>Design and Construction</p>	<p>Pilot project for cities, counties, cities and counties, and special districts to utilize design-build for regional or local water or wastewater treatment facilities, regional or local solid waste facilities, and regional and local water recycling facilities.</p> <ul style="list-style-type: none"> Permits state funds (includes SRF dollars) to be applied to the design-build project.

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State	Citation	Type(s) of Authority	Explanation
	Public Contract Code § 22160	<input checked="" type="checkbox"/> Design and Construction	<p>General design-build authorization for local agencies (city, county, or city and county, a special district that operates wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities) for projects in excess of \$1M.</p> <ul style="list-style-type: none"> • For a local agency that operates wastewater facilities, solid waste management facilities or water recycling facilities, provides authority for the construction of regional and local wastewater facilities, solid waste facilities or water recycling facilities. • Counties and cities may not use this authority for water resources facilities and infrastructure. • Can award contract based on low bid or best value. • No authorization for long-term operations.
	Government Code § 53398.50 (Enhanced Infrastructure Financing District (“EIFD”))	<input checked="" type="checkbox"/> Public Financing	<p>Allows for the creation by the legislative body of a city or county of one or more EIFDs to finance¹ the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of at least 15 years, including sewerage treatment and water reclamation plants and interceptor pipes; facilities for the collection and treatment of water for urban uses; flood control levees and dams, retention basins and drainage channels.</p> <ul style="list-style-type: none"> • Does not permit financing of routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind. • Establishment of an EIFD shall be instituted by the adoption of a resolution indicating an intention to establish the proposed district and the preparation of an infrastructure financing plan. • A resolution approving the plan must be adopted by the governing body of each taxing entity which is proposed to be subject to a division of taxes (if any).

¹ EIFDs may be financed through property tax increment of the taxing agencies that consent to the formation of the district, among other financing mechanisms.

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			<ul style="list-style-type: none"> • Must conduct a public hearing prior to adopting the proposed plan (no sooner than 60 days after the plan has been sent to each affected taxing entity). • The plan shall specify if the EIFD shall be funded solely through the district's share of tax increment, governmental or private loans, grants, bonds, assessments, fees, or some combination thereof. • The public financing authority may not issue bonds or levy assessments or fees included in the plan prior to a 55% affirmative vote of voters or landowners² residing in the district in favor of issuing the bonds. • The district may expend up to 10% of any accrued tax increment in the first two years of the effective date of the EID on planning and dissemination of information to district residents about the plan and planned activities to be funded by the district.

OTHER MECHANISMS TO AGGREGATE AUTHORITY

State	Citation	Type(s) of Authority	Explanation
CA	Government Code § 6500 et seq. (“Joint Exercise of Powers Act”)	<input checked="" type="checkbox"/> Enter into joint powers agreement	Allows for public agencies (city, public corporation, public district, including water district) to contract and enter into a joint powers agreement to create a joint powers agency for the exercise of common powers.
	Government Code § 65865	<input checked="" type="checkbox"/> Enter into development agreement	Allows for any city, county, or city and county to enter into a development agreement with any person having a legal or equitable interest in real property for the development of that property.
	Public Contract Code § 20782	<input checked="" type="checkbox"/> Joint contracting <input checked="" type="checkbox"/> Construction <input checked="" type="checkbox"/> Operations	Allows for any county sanitation district to contract with any public or private corporation of any kind or any person for the joint construction, acquisition, disposition, or operation of any property or works of a kind which might be

² If at least 12 persons are registered to vote within the District, then the vote is by registered voters. If fewer than 12 persons are registered, then the vote is by landowners within the district. Each landowner has one vote for each acre or portion of an acre of land that s/he owns. A public agency is not considered a “landowner” unless all of the land in the district is owned by the public agency.

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			<p>constructed, acquired, disposed of, or operated by the district. (Sanitation districts are empowered under Health & Safety Code § 4700 et seq. to engage in activities related to wastewater, stormwater, recycled or reclaimed water, and water for domestic or other uses.)</p>
	Public Contract Code § 20793	<input checked="" type="checkbox"/> Joint contracting <input checked="" type="checkbox"/> Construction <input checked="" type="checkbox"/> Maintenance	<p>Allows for any sewer maintenance district to contract with any person, firm or corporation, with the federal government, or with any county, city and county, municipal corporation, district or other public corporation for the joint acquisition or construction or use of any sewer or sewers or other works or facilities for the handling, treatment, or disposal of sewage. (Sewer maintenance districts are empowered under Health & Safety Code § 4860 et seq. to engage in activities related to wastewater and stormwater.)</p>
	Public Contract Code § 21562	<input checked="" type="checkbox"/> Joint contracting	<p>Allows for the Metropolitan Water District to join with one or more public or private corporations for the purpose of carrying out any of its powers and to finance acquisitions, construction and operations.</p>
	Water Code §§ 31048, 31049	<input checked="" type="checkbox"/> Joint contracting <input checked="" type="checkbox"/> Construction <input checked="" type="checkbox"/> Operations	<p>Allows for a city/county water district to make and perform any agreement with the State of California or any state agency, public or private corporation and person for the joint construction, acquisition, disposition or operation or any property or works that might be constructed, acquired, disposed of or operated by the district.</p>
	Water Code § 35500	<input checked="" type="checkbox"/> Joint contracting <input checked="" type="checkbox"/> Construction <input checked="" type="checkbox"/> Operations	<p>Allows for a water district (other than a county water district) to contract with any persons, firms, public or private corporations or public agencies or other users concerning facilities and services for the purposes of acquiring, constructing, operating, and furnishing facilities and services, within or without the district, for the collection, treatment, and disposal of sewage, waste, and storm water.</p>

OTHER MECHANISMS TO AGGREGATE AUTHORITY

State	Citation	Type(s) of Authority	Explanation
	Water Code § 35850.5	<input checked="" type="checkbox"/> Joint contracting <input checked="" type="checkbox"/> Construction <input checked="" type="checkbox"/> Financing <input checked="" type="checkbox"/> Operations	Allows for a water district (other than a county water district) to join with one or more public agencies, private corporations or other persons for the purpose of carrying out any of the powers of the district, and to contract with such other public agencies or private corporations or persons for the purpose of financing acquisitions, constructions and operations.
	Water Code § 71722	<input checked="" type="checkbox"/> Joint contracting <input checked="" type="checkbox"/> Construction <input checked="" type="checkbox"/> Operations	Allows for municipal water districts to make and perform any agreement with the State of California or any state agency, public or private corporation and person for the joint construction, acquisition, disposition or operation or any property or works that might be constructed, acquired, disposed of or operated by the district.