

## [Cal Health & Saf Code § 4730](#)

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*Deering's California Codes Annotated > HEALTH AND SAFETY CODE (§§ 1 — 151003) > Division 5 Sanitation (Pts. 1 — 3) > Part 3 Community Facilities (Chs. 1 — 11) > Chapter 3 County Sanitation Districts (Arts. 1 — 10) > Article 3 Officers (§§ 4730 — 4735)*

### **§ 4730. Governing body; Board of directors; Number; Membership; Cities with no representation; “Sanitary district”**

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The governing body of a sanitation district is a board of directors of not less than three members. The presiding officer of the governing body of each city, the whole or part of which is included in the sanitation district, is a member of the board. A member of the governing body of each sanitary district, the whole or part of which is included in the sanitation district, is a member of the board.

If the sanitation district includes territory which is unincorporated and not included in a sanitary district, then the presiding officer of the county board of supervisors is a member of the board.

The governing body of each city with a population of under 2,500,000, as found by the latest census, and the board of supervisors shall each select one of its members, other than its presiding officer, as an alternate director to act as a member of the district board in place of the presiding officer, or in place of the other member of the governing body of the city or county where there are two members from the city or county on the board of directors of the district, during such person's absence, inability, or refusal to act.

The presiding officer of the governing body of a city with a population of 2,500,000 or over shall select one of the other members of the governing body as an alternate director to act as a member of the district board in place of the presiding officer, or in place of the other member of the governing body of the city where there are two members from the city on the board of directors of the district, during such person's absence, inability, or refusal to act. The governing body of each sanitary district represented on the board of directors of a sanitation district shall select one of its members as an alternate director to act as a member of the district board in place of its regular director, or in place of the other member of the governing body of the sanitary district where there are two members from the sanitary district on the board of directors of the district, during such person's absence, inability, or refusal to act.

If the sanitation district includes unincorporated territory and all or part of one city and no sanitary district, or unincorporated territory and one sanitary district and no city, then the presiding officer and one other member of the board of supervisors are members of the board, unless the population included in the city or sanitary district is more than half of the

population of the whole sanitation district, in which case the presiding officer of the board of supervisors and the presiding officer and one other member of the governing body of the city or two members of the governing body of the sanitary district, as the case may be, constitute the board of directors.

If the total number of cities and sanitary districts included in the sanitation district in whole or in part is two and if the sanitation district does not include any territory not in cities or sanitary districts, then the district board includes the presiding officer and one other member of the governing body of the city or two members of the governing body of the sanitary district having the greatest population and the presiding officer of the governing body of the city or one member of the governing body of the sanitary district having the least population.

If the total number of cities and of sanitary districts wholly or in part within the sanitation district is two or more, and if, in addition, the district contains unincorporated territory, then the district board includes the presiding officer of the board of supervisors, the presiding officer of the governing board of each city, and a member of the governing board of each sanitary district.

If the district includes no territory which is in cities or sanitary districts, then the county board of supervisors is the board of directors of the district.

If the territory of the district lies wholly within a city, the legislative body of said city is the board of directors of the district.

A city within a sanitation district, the sewered portion of which city lies entirely within a sanitary district, shall have no representation on the board.

Notwithstanding the foregoing provisions of this section, whenever a sanitation district includes unincorporated territory and all or part of one city and no sanitary district, the governing body of such city may designate the board of supervisors of the county as the district board of directors, unless the population of the incorporated portion of the sanitation district is more than half of the population of the whole district. If the population of the incorporated portion of the sanitation district is more than half of the population of the whole district, the board of supervisors of the county may designate the governing body of the city as the district board of directors.

The term "sanitary district" as used in this section shall mean a sanitary district formed prior to the formation of the sanitation district in which it is included in whole or in part. The term "sanitary district" as used in this section shall also include a county water district which on or before July 1, 1977, assumed the responsibilities, rights, duties, assets, liabilities, and obligations of a sanitary district which at the time of such assumption had representation on the board of directors of the sanitation district by the provisions of this section.

## History

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Enacted Stats 1939 ch 60. Amended Stats 1939 ch 596 § 4; Stats 1947 ch 1428 § 1; Stats 1949 ch 882 § 1; Stats 1951 ch 1076 § 1; Stats 1955 ch 1636 § 1; Stats 1959 ch 1079 § 1; Stats 1976 ch 66 § 1, effective March 23, 1976, ch 898 § 1; Stats 1979 ch 35 § 1, effective April 19, 1979.

Annotations

## Notes

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### Derivation:

### Amendments:

### Derivation:

Stats 1923 ch 250 § 5, as amended Stats 1925 ch 8 § 2, Stats 1927 ch 229 § 2, Stats 1931 ch 691 § 1.

### Amendments:

#### 1947 Amendment:

Prior to the 1947 amendment the section read: "The governing body of a sanitation district is a board of directors of not less than three members. The presiding officer of the governing body of each city, the whole or part of which is included in the district, is a member of the district board.

"If unincorporated territory and territory of but one city is included in the district, the presiding officer and one other member of the board of supervisors of the county in which the district is formed are members of the district board, unless the population of the city or part in the district exceeds that of the unincorporated territory included in the district, in which event the presiding officer of the board of supervisors and the presiding officer of the governing body of the city and one other member of the city governing body constitute the district directors.

"Whenever unincorporated territory and all or parts of two or more cities are included in the district the presiding officer of the board of supervisors of the county in which the district is located is a member of the district board.

"If the district contains no unincorporated territory, the district board shall consist of the presiding officers of the governing bodies of the cities wholly or in part in the district; and if only two cities or parts thereof are in the district, one additional member shall be selected from the governing body of each of the cities.

"If the whole of the district is unincorporated territory, the board of supervisors of the county in which the district is formed constitutes the district board."

1947 Amendment (1) Substituted “two members” for “the presiding officer and one other member” in the second paragraph; (2) substituted “one member” for “the presiding officer” in the second and third paragraphs; and (3) added the sixth paragraph to read: “In case of the absence of the presiding officer of the governing body of a city or the board of supervisors, or his inability to act as a member of the district board, then an alternate member of such governing body or board may be selected, who shall be a member of the district board to act in place of such presiding officer during his absence or inability to act.”

**1949 Amendment:**

Amended the section to read: “The governing body of a sanitation district is a board of directors of not less than three members. A member of the governing body of each city, the whole or part of which is included in the sanitation district, is a member of the board. A member of the governing body of each sanitary district existing at the time of the formation of a sanitation district, the whole or part of which is included in the sanitation district, is a member of the board.

“If the sanitation district includes territory which is unincorporated and not included in a sanitary district, then a member of the county board of supervisors is a member of the board.

“If the sanitation district includes all or part of one city and no sanitary district, or one sanitary district existing at the time of the formation of a sanitation district and no city, then two members of the board of supervisors are members of the board, unless the population included in the city or sanitary district existing at the time of the formation of a sanitation district is more than half of the population of the whole sanitation district, in which case one member of the board of supervisors and two members of the governing body of the city or sanitary district existing at the time of the formation of a sanitation district constitute the board of directors.

“If the total number of cities and sanitary districts existing at the time of the formation of a sanitation district included in the sanitation district, in whole or in part, is two, and if the sanitation district does not include any territory not in cities or sanitary districts existing at the time of the formation of a sanitation district, then the district board includes two members from each of the governing bodies of the cities and sanitary districts existing at the time of the formation of a sanitation district in whole or in part within the sanitation district.

“If the total number of cities and sanitary districts existing at the time of the formation of a sanitation district wholly or in part within the sanitation district, is two or more, and if the territory not included in cities or sanitary districts existing at the time of the formation of a sanitation district constitutes more than half of the total area of the sanitation district, then the district board includes a member of the board of supervisors for each of the supervisorial districts included in whole or in part of that part of the sanitation district which is not in cities or sanitary districts.

“If the district includes no territory which is in cities or sanitary districts, then the county board of supervisors is the board of directors of the district.

“As used in this section, ‘sanitary districts existing at the time of the formation of a sanitation district’ means sanitary districts existing at the time of the formation of a sanitation district and a part and member thereof.”

**1951 Amendment:**

Amended the section to read as at present, except for the following amendments.

**1955 Amendment:**

Added the eighth paragraph.

**1959 Amendment:**

Added the tenth paragraph.

**1976 Amendment (ch 66):**

Added the second sentence in the last paragraph.

**1976 Amendment (ch 898):**

(1) Added “with a population of under 2,500,000, as found by the latest census,” in the third paragraph; (2) added the fourth paragraph; and (3) deleted “the” after “time of” in the second sentence of the last paragraph.

**1979 Amendment:**

(1) Substituted “, or in place of the other member of the governing body of the city or county where there are two members from the city or county on the board of directors of the district, during such person’s absence, inability,” for “during his absence, inability” in the third paragraph; and (2) amended the fourth paragraph by substituting (a) “in place of the presiding officer, or in place of the other member of the governing body of the city where there are two members from the city on the board of directors of the district, during such person’s absence, inability, or refusal to act” for “under such circumstances” in the first sentence; and (b) “, or in place of the other members of the governing body of the sanitary district where there are two members from the sanitary district on the board of directors of the district, during such person’s” for “during his” in the second sentence.

## Notes to Decisions

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### 1. Constitutionality

In a mandamus action by persons who were residents of a county as well as of a sanitation district located within the county but not coextensive therewith, the trial court properly sustained a general demurrer to a cause of action based on petitioner’s claims of denial of equal protection of the laws and denial of a republican form of government by the provisions of H & S C § [4730](#), declaring the county board of supervisors to be, under the circumstances involved, the

sanitation district board of directors. The “one man, one vote” rule applies only to elective officials and no constitutional infirmity arose from the fact that the directors, in effect, chosen by the legislature, happened to be persons elected to serve in another capacity, particularly in view of the statutory powers of a sanitation district, which are primarily administrative, or executive, rather than legislative, although it has a limited power to adopt ordinances. The “guaranty clause” has no bearing, since it is not a source of a constitutional standard for invalidating state action. [\*O’Keefe v. Atascadero County Sanitation Dist.\* \(Cal. App. 2d Dist. Dec. 1, 1971\), 21 Cal. App. 3d 719, 98 Cal. Rptr. 878, 1971 Cal. App. LEXIS 1114.](#)

## Opinion Notes

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### Attorney General’s Opinions

Incompatibility of office of director of sanitary district and member of city counsel or county supervisor. 13 Ops. Cal. Atty. Gen. 151.

## Research References & Practice Aids

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### Cross References:

Alteration of membership: H & S C § [4731](#).

Status of board of directors whether for collection, treatment and disposal of sewage or operation and acquisition of refuse transfer, or disposal system: H & S C §§ [4741.4](#), [4741.6](#).

### Federal Cross References

Federal census generally: 13 USCS §§ [1](#) et seq.

### Jurisprudences

Cal Jur 3d (Rev) Drains and Sewers § 17.

### Hierarchy Notes:

[Cal Health & Saf Code Div. 5](#)

[Cal Health & Saf Code Div. 5, Pt. 3](#)

[Cal Health & Saf Code Div. 5, Pt. 3, Ch. 3](#)

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