

## First Supplement to Memorandum 72-64

Subject: Study 36.80 - Condemnation Law and Procedure (Jurisdiction of  
Public Utilities Commission)

The staff has discovered some Government Code provisions that are of considerable interest in connection with the problem of the jurisdiction of the Public Utilities Commission in condemnation actions involving the issue of joint use. These provisions are set out as Exhibit I (pink). The most significant provisions are on pages 18-20 of Exhibit I. The substance of the attached provisions is summarized below.

Chapter 1 (commencing with Section 55000) of Part 2 of Division 2 of Title 5 of the Government Code contains provisions permitting condemnation for joint projects of local agencies for sewers, water mains, and other conduits and contains a specific grant of condemnation authority (Govt. Code § 55003) for this purpose and permits the condemnation action to be brought in the name of one of the agencies (Govt. Code § 55004). This chapter does not deal with controversies that would require decision by the court or the Public Utilities Commission.

Chapter 2 (commencing with Section 55300) is the interesting chapter. The chapter deals with projects for sewers, water mains, or other conduits, and pole lines for the transmission of electricity and electric energy. Any controversy that arises between public agencies making joint use of the facilities covered by the chapter is to be submitted to the Public Utilities Commission for decision, and the decision of the Public Utilities Commission is final (Govt. Code §§ 55309, 55310, 55360-55367).

The procedure established by the provisions outlined above would be preserved by the provision set out as Exhibit I to Memorandum 72-64. However,

that provision does not resolve the issue whether the court or the Public Utilities Commission determines controversies arising in eminent domain proceedings concerning joint use where there is no clear statutory resolution of the issue. The provisions attached as Exhibit I to this supplement (in addition to those special water district statutes previously considered which gave jurisdiction to the Public Utilities Commission to resolve joint use problems) suggest that the jurisdiction of the Public Utilities Commission may in fact include joint use issues arising in eminent domain proceedings and that it might be desirable to make this clear in the comprehensive statute rather than preserving the existing uncertainty. Our previously approved joint use provisions would be inconsistent with Chapter 2 (attached) because those provisions give the court jurisdiction over the joint issues in proceedings of the type covered by Chapter 2.

Respectfully submitted,

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Executive Secretary

GOVERNMENT CODE PROVISIONS

## Chapter 1

## JOINT SANITATION PROJECTS

Article	Section
1. General	55000
2. Request by Legislative Body	55020
3. Contracts	55050
4. Agreements for the Joint Construction and Maintenance of Sanitation Facilities	55080
5. Sewage Treatment and Disposal Plans [Plants]	55110

*Chapter 1 was added by Stats.1949, c. 81, p. 319, § 1.*

## Article 1

## GENERAL

- Sec.
55000. Local agency, definition.
55001. Conduits, definition.
55002. Authority to permit another local agency to construct and maintain conduits.
55003. Eminent domain, procedure.
55004. Condemnation actions, parties plaintiff.

*Article 1 was added by Stats.1949, c. 81, p. 319, § 1.*

**§ 55000. Local agency, definition.** As used in this chapter, "local agency" means municipal corporation or sanitary district. (Added Stats.1949, c. 81, p. 319, § 1.)

Library references: Words and Phrases (Perm.Ed.)

## Cross References

Sanitary districts, see Health and Safety Code § 6400 et seq.

**§ 55001. Conduits, definition.** As used in this chapter, "conduits" mean sewers, watermains, and other conduits. (Added Stats. 1949, c. 81, p. 319, § 1.)

Library references: Words and Phrases (Perm.Ed.)

**§ 55002. Authority to permit another local agency to construct and maintain conduits.** Under the terms prescribed by its legislative body, a local agency may permit another local agency to construct and maintain conduits in, across, or along its streets and other public

## § 55002

## CITIES, COUNTIES, ETC.

## Title 5

places pursuant to this chapter and not otherwise. (Added Stats.1949, c. 81, p. 319, § 1.)

**Derivation:** Stats.1909, c. 397, p. 677, § 1; Stats.1911, c. 138, p. 300, § 1.

**Library references:** Municipal Corporations  $\Rightarrow$  680(1); C.J.S. Municipal Corporations § 1718.

**§ 55003. Eminent domain, procedure.** When it is necessary to take or damage private property in the construction of any outfall sewer or conduit pursuant to this chapter, the property may be taken by eminent domain pursuant to the Code of Civil Procedure. (Added Stats.1949, c. 81, p. 319, § 1.)

**Derivation:** Stats.1909, c. 397, p. 677, § 6, added Stats.1919, c. 109, p. 155, § 3.

**Library references:** Eminent Domain  $\Rightarrow$  22; C.J.S. Eminent Domain § 54.

### Cross References

#### Eminent domain,

In general, see § 184; Const. art. 1, § 14; Civil Code § 1001.

Sewers and sewerage, see §§ 39040, 39110-39112, 39140-39143, 40404, 54340, 54341;

Code of Civil Procedure § 1238; Health and Safety Code §§ 4740, 4760, 4886,

5001, 5003, 6514; Public Utilities Code §§ 12703, 12771.

Water works, systems, and districts, see §§ 25621, 38730, 39792, 40404, 54340, 54341;

Const. art. 1, § 14; Code of Civil Procedure § 1238; Public Utilities Code §§ 12703, 12771, 12801.

**§ 55004. Condemnation actions, parties plaintiff.** All condemnation actions may be brought by and in the name of one local agency designated by all of the parties to the agreement. (Added Stats.1949, c. 81, p. 319, § 1.)

**Derivation:** Stats.1909, c. 397, p. 677, § 6, added Stats.1919, c. 109, p. 155, § 3.

**Library references:** Eminent Domain  $\Rightarrow$  168(1); C.J.S. Eminent Domain § 218.

## Article 2

### REQUEST BY LEGISLATIVE BODY

#### Sec.

55020. Connecting conduits, resolution of necessity.

55021. Contents of resolution.

55022. Accompaniment of resolution with request.

55023. Signature to request.

55024. Permission, discretion.

55025. Permission, ordinance or resolution.

55026. Ordinance or resolution, statement of terms and conditions.

55027. Connection with sewers as condition of permission; sharing of costs.

55028. Cost, determination, payment.

*Article 2 was added by Stats.1949, c. 81, p. 319, § 1.*

### Library References

Municipal Corporations  $\Rightarrow$  683(1).

C.J.S. Municipal Corporations § 1728

**§ 55020. Connecting conduits, resolution of necessity.** When the legislative body of a local agency finds and by resolution declares that its location is such that it cannot adequately or conveniently be provided with conduits, unless it constructs and maintains certain connecting conduits in, across, or along certain streets, or other public places of any other local agency, the legislative body may submit a copy of the resolution to the legislative body of the other local agency. (Added Stats.1949, c. 81, p. 319, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

**§ 55021. Contents of resolution.** The resolution shall contain:

(a) A description of the conduits proposed to be constructed and maintained in the other local agency.

(b) A description of the streets or other public places in, across, or along which the conduits are proposed to be constructed and maintained. (Added Stats.1949, c. 81, p. 319, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

**§ 55022. Accompaniment of resolution with request.** The resolution shall be accompanied by a written request that permission be granted to the local agency to construct and maintain the conduits described in the resolution. (Added Stats.1949, c. 81, p. 319, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

**§ 55023. Signature to request.** The clerk of the local agency shall sign the request. (Added Stats.1949, c. 81, p. 319, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

**§ 55024. Permission, discretion.** In its discretion the legislative body receiving the request and copy of the resolution may grant permission. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

**§ 55025. Permission, ordinance or resolution.** The permission shall be granted by ordinance, or by resolution in the case of a sanitary district. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

**§ 55026. Ordinance or resolution, statement of terms and conditions.** The ordinance or resolution shall state any terms and conditions of the permission prescribed by the legislative body. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

Library references: Municipal Corporations 483(1); C.I.S. Municipal Corporations §§ 1730, 1731.

## § 55027

## CITIES, COUNTIES, ETC.

## Title 5

**§ 55027.** Connection with sewers as condition of permission; sharing of costs. If the legislative body grants permission for the construction and maintenance of sewers, it may require as a condition that it may connect its sewers with those constructed under permission and use them in connection with its sewer system upon paying a proportionate part of the cost of constructing and maintaining them to the local agency constructing them. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1900, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

Library references: Municipal Corporations C-712; C.I.S. Municipal Corporations § 1865.

**§ 55028.** Cost, determination, payment. The cost may be determined by resolutions of the legislative bodies of both local agencies. The payment shall be made at the times and in the amounts determined by the legislative bodies. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1900, c. 397, p. 677, § 2; Stats.1911, c. 138, p. 301, § 1.

### Notes of Decisions

#### i. Construction and application

Under this section and § 55027, contract which was alleged to be the contract for joint use but which required first city to pay only a share of costs of construction

within its boundaries would be valid only if interpreted as a contract merely for a connection. *City of Vernon v. City of Los Angeles* (App.1954) 275 P.2d 72, hearing granted.

## Article 3

## CONTRACTS

### Sec.

- 55050. Letting to lowest responsible bidder.
- 55051. Advertisement for proposals, requirement.
- 55052. Advertisement for proposals, publication.
- 55053. Performance bonds.
- 55054. Rejection of bids.
- 55055. Construction by agency without advertisement for proposals or letting of contract.
- 55056. Board of public works.
- 55057. Letting and entering into contracts pursuant to charter or general law.

*Article 3 was added by Stats.1949, c. 81, p. 320, § 1.*

**§ 55050.** Letting to lowest responsible bidder. All contracts for the construction or completion of, or for furnishing labor or materials for, any conduits to be constructed by a local agency in another

local agency shall be let to the lowest responsible bidder. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 678, § 3; Stats.1911, c. 138, p. 302, § 1.

Library references: Municipal Corporations 330(1); C.J.S. Municipal Corporations § 1147.

**§ 55051. Advertisement for proposals, requirement.** The legislative body of the local agency constructing the conduits under permission shall advertise inviting sealed proposals for furnishing the labor and materials for the proposed work before any contract is let. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 678, § 3; Stats.1911, c. 138, p. 302, § 1.

**§ 55052. Advertisement for proposals, publication.** The advertisement shall be published for at least ten days in one or more newspapers published in the local agency. If there is no such newspaper it shall be published in one or more newspapers published in the county in which the local agency is situated. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 678, § 3; Stats.1911, c. 138, p. 302, § 1.

Library references: Municipal Corporations 331; C.J.S. Municipal Corporations § 1150.

**§ 55053. Performance bonds.** The legislative body shall require such bonds as it deems best from the successful bidder to insure the faithful performance of the contract. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 678, § 3; Stats.1911, c. 138, p. 302, § 1.

Library references: Municipal Corporations 345; C.J.S. Municipal Corporations § 1175.

**§ 55054. Rejection of bids.** The legislative body may reject any and all bids. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 678, § 3; Stats.1911, c. 138, p. 302, § 1.

Library references: Municipal Corporations 335(2); C.J.S. Municipal Corporations § 1154.

**§ 55055. Construction by agency without advertisement for proposals or letting of contract.** This chapter does not prohibit the local agency itself from constructing or completing the works and employing the necessary labor without advertisement for proposals or letting of a contract. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1909, c. 397, p. 678, § 3; Stats.1911, c. 138, p. 302, § 1.

Library references: Municipal Corporations 330(2); C.J.S. Municipal Corporations § 1148.

**§ 55056**

**CITIES, COUNTIES, ETC.**

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**§ 55056. Board of public works.** In any city operating under a charter providing for a board of public works, all things required in this article to be performed by its legislative body shall be performed by the board. (Added Stats.1949, c. 81, p. 320, § 1.)

Derivation: Stats.1960, c. 357, p. 678, § 3; Stats.1911, c. 138, p. 302, § 1.

Library references: Municipal Corporations 5178; C.M.S. Municipal Corporations § 556.

**§ 55057. Letting and entering into contracts pursuant to charter or general law.** If the charter or general law under which local agency is operating prescribes the manner of letting and entering into contracts of the kind provided for by this chapter, such contracts shall be let and entered pursuant to the charter or general law. (Added Stats. 1949, c. 81, p. 320, § 1.)

Derivation: Stats.1960, c. 397, p. 678, § 3; Stats.1911, c. 138, p. 302, § 1.

**Article 4**

**AGREEMENTS FOR THE JOINT CONSTRUCTION AND  
MAINTENANCE OF SANITATION FACILITIES**

**Sec.**

- 55080. Resolution, authority for agreement, conduits.
- 55081. Outfall sewers within or outside boundaries.
- 55082. Joint payment of cost of joint use, benefit, and maintenance.
- 55083. Payment of proportionate part of construction and maintenance costs.
- 55084. Amendment and supplementation; additional parties.
- 55085. Amended agreement; joint payment of costs; joint use, benefit and maintenance.
- 55086. Amended agreement, proportionate payment of construction and maintenance costs.
- 55087. Reimbursement of original parties.
- 55088. Time of entering into amended or supplemental agreement.
- 55089. Making of contracts by local agency designated by legislative bodies of all agencies.
- 55090. Joint use of facilities already constructed.
- 55091. Use of streets for construction and maintenance.
- 55092. Extension outside limits of agencies; use of public highways.
- 55093. Raising funds for payment of costs, bonds.

*Article 4 was added by Stats.1949, c. 81, p. 321, § 1.*

**§ 55080. Resolution, authority for agreement, conduits.** When the legislative bodies of two or more local agencies determine and adopt a resolution declaring that it will be for the interest or advantage of



the local agencies to do so, the legislative bodies, may enter an agreement authorizing and providing for the joint construction and maintenance of conduits in the streets or other public places of either of the local agencies. (Added Stats.1949, c. 81, p. 321, § 1.)

Library references: Municipal Corporations ~~265~~; C.J.S. Municipal Corporations § 1030.

#### Historical Note

Derivation: Stats.1909, c. 397, p. 679, § 109, p. 153, § 1; Stats.1923, c. 140, p. 283, § 4; Stats.1911, c. 138, p. 302, § 1; Stats. 1915, c. 75, p. 83, § 1; Stats.1919, c.

**§ 55081. Outfall sewers within or outside boundaries.** The agreement may include the joint construction and maintenance of all necessary outfall sewers within or outside of the boundaries of the local agencies. (Added Stats.1949, c. 81, p. 321, § 1.)

Derivation: See Derivation under § 55080.

Library references: Municipal Corporations ~~277~~; C.J.S. Municipal Corporations § 1030.

**§ 55082. Joint payment of cost of joint use, benefit, and maintenance.** The agreement shall provide for the joint payment of the cost of the joint use, benefit, and maintenance of all the outfall sewers and conduits upon the terms and under the regulations approved by the legislative bodies of all the local agencies. (Added Stats.1949, c. 81, p. 321, § 1.)

Derivation: See Derivation under § 55080.

Library references: Municipal Corporations ~~284(1)~~; C.J.S. Municipal Corporations § 1033.

**§ 55083. Payment of proportionate part of construction and maintenance costs.** The legislative body of each such local agency may bind and obligate the local agency to pay its proportionate part of the construction and maintenance costs of the outfall sewer and conduits at the times and in the installments provided for in the agreement. (Added Stats.1949, c. 81, p. 321, § 1.)

Derivation: See Derivation under § 55080.

#### Code Commission Notes

[The phrase] "and maintenance" has been added in the codification. It appears from the rest of Section 4 [Stats.1923, c. 410, p. 286] that the intent is to provide for the joint payment of both construction and maintenance costs.

**§ 55084. Amendment and supplementation; additional parties.** By unanimous consent, the local agencies may amend or supplement

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the agreement and permit additional local agencies to become parties to the agreement. (Added Stats.1949, c. 81, p. 321, § 1.)

Derivation: See Derivation under § 55080.

**§ 55085. Amended agreement; joint payment of costs; joint use, benefit and maintenance.** When by resolution a legislative body determines and declares that it is for the interest or advantage of the local agency to become a party to the amended or supplemental joint agreement, it may provide for the joint payment of the costs, and joint use, benefit, and maintenance, of the outfall sewers and conduits upon the terms and under the regulations approved by the legislative bodies of all the local agencies entering into the amended or supplemental agreement. (Added Stats.1949, c. 81, p. 321, § 1.)

Derivation: See Derivation under § 55080.

**§ 55086. Amended agreement, proportionate payment of construction and maintenance costs.** Each such local agency is obligated to pay the proportionate part of the construction and maintenance costs of the outfall sewer and conduit at the times and in the installments provided for in the amended or supplemental agreement. (Added Stats.1949, c. 81, p. 321, § 1.)

Derivation: See Derivation under § 55080.

**§ 55087. Reimbursement of original parties.** Each such local agency is also obligated to reimburse the parties to the original agreement for money they expended pursuant to the original agreement. (Added Stats.1949, c. 81, p. 321, § 1.)

Derivation: See Derivation under § 55080.

**§ 55088. Time of entering into amended or supplemental agreement.** An amended or supplemental agreement may be entered into prior to the commencement, during the construction, or after the completion of the outfall sewer and conduit. (Added Stats.1949, c. 81, p. 321, § 1.)

Derivation: See Derivation under § 55080.

**§ 55089. Making of contracts by local agency designated by legislative bodies of all agencies.** All contracts for construction pursuant to this article shall be made and entered into by one local agency designated by the legislative bodies of all the local agencies in the manner provided in Article 3.<sup>1</sup> (Added Stats.1949, c. 81, p. 321, § 1.)

<sup>1</sup> Section 55050 et seq.

Derivation: See Derivation under § 55080.

**§ 55090. Joint use of facilities already constructed.** By their legislative bodies two or more local agencies may also enter into an agreement with each other for the joint use by them of any outfall sewers and conduits already constructed in whole or in part in the streets or other public places of any such local agencies upon the terms their legislative bodies determine to be proper. (Added Stats.1949, c. 81, p. 321, § 1.)

**Derivation:** See Derivation under § 55080.

**Library references:** Municipal Corporations 6713; C.J.S. Municipal Corporations § 1805.

**§ 55091. Use of streets for construction and maintenance.** The local agencies entering into the agreements may use the streets within such local agencies for the construction and maintenance of outfall sewers and conduits pursuant to this article. (Added Stats.1949, c. 81, p. 322, § 1.)

**Derivation:** See Derivation under § 55081.

**Library references:** Municipal Corporations 680(4); C.J.S. Municipal Corporations § 1718.

**§ 55092. Extension outside limits of agencies; use of public highways.** When it is necessary to extend the outfall sewers and conduits without the limits of the local agencies, they may use public highways without the city limits subject only to the right of the board of supervisors to make reasonable police regulations for the protection of the highways used. (Added Stats.1949, c. 81, p. 322, § 1.)

**Derivation:** See Derivation under § 55081.

**§ 55093. Raising funds for payment of costs, bonds.** When a local agency enters into an agreement pursuant to this article, the proportionate part of the costs required to be paid by it in the agreement may be raised by any legal means including the issuance and sale of the bonds of the local agency. (Added Stats.1949, c. 81, p. 322, § 1.)

**Derivation:** Stats.1909, c. 297, p. 679, § 5; added Stats.1919, c. 109, p. 154, § 2.

#### Cross References

Bonds, see § 54300 et seq.

Article 5

SEWAGE TREATMENT AND DISPOSAL PLANS [PLANTS]

Sec.

- 55110. Agreement for joint construction, ownership, or use.
- 55111. Maintenance and operation, percentages of costs payable by parties.
- 55112. Bonds to pay cost.
- 55113. Bonds, issuance by city pursuant to code provisions.
- 55114. Bonds, issuance by city pursuant to charter.
- 55115. Bonds, issuance by sanitary district.

*Article 5 was added by Stats.1949, c. 81, p. 322, § 1.*

**§ 55110. Agreement for joint construction, ownership, or use.** Upon the terms prescribed by its legislative body, a local agency may enter into an agreement with other local agencies for the joint construction, ownership, or use of sewage treatment plants and other sewage disposal works or for the purchase or sale of any percentage of the capacity in any such plant or works. (Added Stats.1949, c. 81, p. 322, § 1.)

*Derivation:* Stats.1909, c. 397, p. 677, § 7, added Stats.1945, c. 249, p. 712, § 2.

*Library references:* Municipal Corporations C-270; C.J.S. Municipal Corporations § 1049.

**§ 55111. Maintenance and operation, percentages of cost payable by parties.** The contracts may provide for the maintenance and operation of the plant or works and the percentages of the maintenance and operation cost to be paid by the local agencies entering into the agreement. (Added Stats.1949, c. 81, p. 322, § 1.)

*Derivation:* Stats.1909, c. 397, p. 677, § 7, added Stats.1945, c. 249, p. 712, § 2.

**§ 55112. Bonds to pay cost.** Any local agency may issue bonds to pay all or part of the cost of construction of or ownership in the plant or works, or of purchasing capacity in the plant or works or a right to use them, as provided in the contract. (Added Stats.1949, c. 81, p. 322, § 1.)

*Derivation:* Stats.1909, c. 397, p. 677, § 7, added Stats.1945, c. 249, p. 712, § 2.

*Library references:* Municipal Corporations C-911; C.J.S. Municipal Corporations § 1907.

**§ 55113. Bonds, issuance by city pursuant to code provisions.** Bonds issued by a city pursuant to this article shall be issued substan-

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tially pursuant to Article 1, Chapter 4, Division 4, Title 4.<sup>1</sup> (Added Stats.1949, c. 81, p. 322, § 1.)

<sup>1</sup> Section 43600 et seq.

Derivation: Stats.1909, c. 397, p. 677, § 7, added Stats.1945, c. 249, p. 712, § 2.

**§ 55114. Bonds, issuance by city pursuant to charter.** In chartered cities bonds shall be issued pursuant to the city charter. (Added Stats.1949, c. 81, p. 322, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 7, added Stats.1945, c. 249, p. 712, § 2.

**§ 55115. Bonds, issuance by sanitary district.** Bonds issued by a sanitary district shall be issued substantially in the manner provided in the act under which the district is incorporated. (Added Stats. 1949, c. 81, p. 322, § 1.)

Derivation: Stats.1909, c. 397, p. 677, § 7, added Stats.1945, c. 249, p. 712, § 2.

### Cross References

Sanitary districts, see Health and Safety Code §§ 6400 et seq., 6610.

## Chapter 2

### JOINT PROJECTS FOR SANITATION AND ELECTRICAL LINES

Article	Section
1. General	55300
2. Agreements for the Joint Construction and Maintenance of Sanitation Conduits and Electrical Lines	55330
3. Refusal to Grant Permission	55360

*Heading, added by Stats.1949, c. 81, p. 322, § 1, as Chapter 12, was renumbered as Chapter 2 and amended by Stats. 1959, c. 597, p. 2578, § 16.*

### Article 1

### GENERAL

Sec.	
55300.	Local agency, definition.
55301.	Conduits, definition.
55302.	Lines, definition.
55303.	Exclusive character of powers and duties conferred; conclusive character of commission's judgment.
55304.	Chapter as alternative.
55305.	Permission granted by city or district to local agency regarding conduits and lines.

## § 55300

## CITIES, COUNTIES, ETC.

## Title 5

### Sec.

55306. Resolution of necessity, request for permission.  
55307. Connection with and use of sewers by city or district.  
55308. Letting of contracts for labor or materials, construction by agency.  
55309. Controversies between local agencies, filing of petition with commission.  
55310. Hearing and determination of complaint.

*Article 1 was added by Stats.1949, c. 81, p. 322, § 1.*

**§ 55300. Local agency, definition.** As used in this chapter, "local agency" means county, city, and sanitary district. (Added Stats. 1949, c. 81, p. 322, § 1.)

Library references: Words and Phrases (Perm.Ed.)

### Cross References

Sanitary districts, see Health and Safety Code § 6400 et seq.

**§ 55301. Conduits, definition.** As used in this chapter, "conduits" mean sewers, water mains, or other conduits. (Added Stats. 1949, c. 81, p. 322, § 1.)

Library references: Words and Phrases (Perm.Ed.)

**§ 55302. Lines, definition.** As used in this chapter, "lines" mean pole lines for the transmission of electricity and electric energy. (Added Stats.1949, c. 81, p. 322, § 1.)

Library references: Words and Phrases (Perm.Ed.)

**§ 55303. Exclusive character of powers and duties conferred; conclusive character of commission's judgment.** All powers and duties conferred upon the Public Utilities Commission by this chapter are exclusive. Its judgment is conclusive upon all parties to any proceedings taken pursuant to this chapter. (Added Stats.1949, c. 81, p. 323, § 1.)

Derivation: Stats.1915, c. 624, p. 1200, § 8.

Library references: Public Service Commission § 6.2; C.J.S. Public Utilities § 40.

### Cross References

Public utilities commission, see Public Utilities Code § 301 et seq.

**§ 55304. Chapter as alternative.** This chapter is alternative to, and does not repeal, Chapter 1.<sup>1</sup> (Added Stats.1949, c. 81, p. 323, § 1.)

<sup>1</sup> Section 55000 et seq.

Derivation: Stats.1915, c. 624, p. 1200, § 9.

**§ 55305. Permission granted by city or district to local agency regarding conduits and lines.** Under the terms prescribed by its leg-

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islative body a city or sanitary district may permit a local agency to construct and maintain conduits and lines in, along, or across its streets and other public places and to use them for such purpose pursuant to this chapter and not otherwise. (Added Stats.1949, c. 81, p. 323, § 1.)

Derivation: Stats.1915, c. 624, p. 1195, § 1.

Library references: Municipal Corporations Ⓒ682(4); C.J.S. Municipal Corporations § 1721.

**§ 55306.** Resolution of necessity, request for permission. The resolution of necessity and request for permission of a local agency to construct and maintain conduits and poles in another city or sanitary district shall be made and submitted pursuant to Article 2, Chapter 1,<sup>1</sup> except that the submitted resolution of necessity shall be certified by the clerk. (Added Stats.1949, c. 81, p. 323, § 1.)

<sup>1</sup> Section 55020 et seq.

Derivation: Stats.1915, c. 624, p. 1195, § 2.

Library references: Municipal Corporations Ⓒ293(1); C.J.S. Municipal Corporations § 1002.

**§ 55307.** Connection with and use of sewers by city or district. If a city or sanitary district, grants permission for the construction and maintenance of sewers, it may connect its sewer and those of its inhabitants with the sewers constructed, and use such sewers, pursuant to Article 2, Chapter 1.<sup>1</sup> (Added Stats.1949, c. 81, p. 323, § 1.)

<sup>1</sup> Section 55020 et seq.

Derivation: Stats.1915, c. 624, p. 1195, § 2.

Library references: Municipal Corporations Ⓒ712; C.J.S. Municipal Corporations § 1805.

**Cross References**

Refusal to grant permission, see § 55363.

**§ 55308.** Letting of contracts for labor or materials, construction by agency. A local agency shall let contracts for furnishing labor or materials for the construction or completion of conduits or line constructed by it in another city or sanitary district pursuant to Article 3, Chapter 1.<sup>1</sup> This chapter does not prohibit the local agency itself from constructing or completing the work and employing the necessary labor without advertisement for proposals or letting of a contract. (Added Stats.1949, c. 81, p. 323, § 1.)

<sup>1</sup> Section 55050 et seq.

Derivation: Stats.1915, c. 624, p. 1197, § 3.

Library references: Municipal Corporations Ⓒ628; C.J.S. Municipal Corporations § 1144.

**§ 55309**

CITIES, COUNTIES, ETC.

Title 5

**§ 55309. Controversies between local agencies, filing of petition with commission.** If a controversy arises between the local agencies after permission has been granted by a city or sanitary district or by the Public Utilities Commission concerning the construction, operation, maintenance, or control of any conduits or lines, either local agency may file a petition with the commission stating the nature of the grievance. (Added Stats.1949, c. 81, p. 323, § 1.)

Derivation: Stats.1915, c. 624, p. 1260, § 7.

**Cross References**

Public utilities commission, see Public Utilities Code § 301 et seq.

**§ 55310. Hearing and determination of complaint.** The Public Utilities Commission shall hear and determine the complaint pursuant to the Public Utilities Act. (Added Stats.1949, c. 81, p. 323, § 1.)

Derivation: Stats.1915, c. 624, p. 1260, § 7.

Library references: Public Service Commissions 617; C.I.S. Public Utilities §§ 55, 61.

**Cross References**

Hearings and judicial review under Public Utilities Act, see Public Utilities Code § 1701 et seq.

**Article 2**

**AGREEMENTS FOR THE JOINT CONSTRUCTION AND  
MAINTENANCE OF SANITATION CONDUITS AND  
ELECTRICAL LINES**

**Sec.**

- 55330. Resolution, authority for joint agreement.
- 55331. Proportionate part of construction and maintenance costs.
- 55332. Making of contracts by local agency designated by legislative bodies of all agencies.
- 55333. Joint use of conduits or lines wholly or partially constructed.

*Article 2 was added by Stats.1949, c. 81, p. 323, § 1.*

**§ 55330. Resolution, authority for joint agreement.** When the legislative body of a local agency and the legislative bodies of one or more cities or sanitary districts find and adopt a resolution declaring that it will be for the interests or advantage of the local agencies to do so, the legislative bodies may enter into a joint agreement authorizing the construction and maintenance of conduits or lines in, over, or along



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the streets or other public places of any of the local agencies, or in part outside of the limits of the local agencies, at their joint expense and for their joint use and benefit upon the terms and under the regulations approved by all of them. (Added Stats.1949, c. 81, p. 323, § 1.)

Derivation: Stats.1915, c. 624, p. 1197, § 4.

Library references: Municipal Corporations C288(1); C.J.S. Municipal Corporations § 1083.

§ 55331. **Proportionate part of construction and maintenance costs.** The legislative body of each local agency may bind or obligate it to pay a proportionate part of the construction and maintenance costs of the conduits or lines at the times and in the installments so approved. (Added Stats.1949, c. 81, p. 323, § 1.)

Derivation: Stats.1915, c. 624, p. 1197, § 4.

§ 55332. **Making of contracts by local agency designated by legislative bodies of all agencies.** All contracts for construction of conduits or lines pursuant to this article shall be made and entered into by one of the local agencies designated by the legislative bodies of all the local agencies and in the manner provided by Section 55308. (Added Stats.1949, c. 81, p. 324, § 1.)

Derivation: Stats.1915, c. 624, p. 1197, § 4.

Library references: Municipal Corporations C328; C.J.S. Municipal Corporations § 1144.

§ 55333. **Joint use of conduits or lines wholly or partially constructed.** The legislative body of a local agency and the legislative bodies of one or more cities or sanitary districts may enter into an agreement with each other for the joint use by them of any conduits or lines which have been wholly or partially constructed in the streets or other public places of any of the local agencies upon the terms their legislative bodies declare by agreement to be proper. (Added Stats. 1949, c. 81, p. 324, § 1.)

Derivation: Stats.1915, c. 624, p. 1197, § 4

Article 3

REFUSAL TO GRANT PERMISSION

Sec.

- 55360. Conduits and lines as public utilities.
- 55361. Failure to act on request within three months as a refusal.
- 55362. Conduct of proceedings.
- 55363. Complaint to public utilities commission, grounds.
- 55364. Time of making complaint.
- 55365. Contents of complaint.
- 55366. Hearing, judgment granting request.
- 55367. Judgment, prescription of terms.

*Article 3 was added by Stats.1949, c. 81, p. 324, § 1.*

Library References

Municipal Corporations ~~277~~.  
C.J.S. Municipal Corporations § 1659.

**§ 55360. Conduits and lines as public utilities.** For the purposes of this chapter, all conduits and lines are declared to be public utilities. (Added Stats.1949, c. 81, p. 324, § 1.)

*Derivation:* Stats.1915, c. 624, p. 1198, § 5.

**§ 55361. Failure to act on request within three months as a refusal.** When the legislative body of the city or sanitary district to which a request has been made fails to grant permission or prescribe the terms upon which the permission may be granted for three months from the filing of the request, such failure is deemed a refusal to grant the request. (Added Stats.1949, c. 81, p. 324, § 1.)

*Derivation:* Stats.1915, c. 624, p. 1198, § 5.

**§ 55362. Conduct of proceedings.** Except as otherwise provided in this article, proceedings before the Public Utilities Commission shall be had and conducted pursuant to the Public Utilities Act. (Added Stats.1949, c. 81, p. 324, § 1.)

*Derivation:* Stats.1915, c. 624, p. 1198, § 5.

Cross References

Public utilities act, see Public Utilities Code §§ 301 et seq., 1701 et seq.

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**§ 55363. Complaint to public utilities commission, grounds.** A local agency may make a complaint to the Public Utilities Commission in either of the following cases:

(a) If a city or sanitary district refuses to grant permission to construct and maintain conduits or lines in, along, or across its streets or other public places after a request for use has been made to its legislative body and other proceedings had as prescribed by Section 55307.

(b) If the terms prescribed by the city or sanitary district are rejected by the legislative body of the local agency making the request and it adopts a resolution stating that the terms are rejected. (Added Stats.1949, c. 81, p. 324, § 1.)

Derivation: Stats.1915, c. 624, p. 1198, § 5.

Library references: Public Service Commission 66.6; C.J.S. Public Utilities § 42.

**§ 55364. Time of making complaint.** The local agency may make the complaint within one year after making the application and request for permission. (Added Stats.1949, c. 81, p. 324, § 1.)

Derivation: Stats.1915, c. 624, p. 1198, § 5.

**§ 55365. Contents of complaint.** The complaint shall set forth:

(a) Copies of the resolutions of the legislative bodies of the several local agencies, relative to the application and its refusal.

(b) A copy of the resolution adopted by its legislative body rejecting the terms.

(c) A copy of the request.

(d) The name of the local agency which made the application.

(e) The name of the city or sanitary district where the streets or public places are situated.

(f) The names or other proper designation of the streets or public places proposed to be used.

(g) The purpose for which, and the manner in which, the streets or public places are proposed to be used.

(h) The facts showing the necessity or expediency for such use. (Added Stats.1949, c. 81, p. 324, § 1.)

Derivation: Stats.1915, c. 624, p. 1198, § 5.

**§ 55366**

CITIES, COUNTIES, ETC.

Title 5

**§ 55366. Hearing, judgment granting request.** The Public Utilities Commission shall hear the complaint. If it appears to the commission that the public interest or convenience requires that the streets and public places be used for the purposes set forth in the complaint, it shall enter its judgment granting to the local agency making the request the right to use the streets or other public places for such purposes. (Added Stats.1949, c. 81, p. 325, § 1.)

**Derivation:** Stats.1915, c. 624, p. 1198, § 5.

**Library references:** Public Service Commission 17, 19(1); C.E.S. Public Utilities §§ 55, 57.

**Cross References**

Hearings and judicial review, see Public Utilities Code § 1701 et seq.

**§ 55367. Judgment, prescription of terms.** In the judgment the Public Utilities Commission may prescribe the terms upon which the local agency making the application may use the streets and public places. (Added Stats.1949, c. 81, p. 325, § 1.)

**Derivation:** Stats.1915, c. 624, p. 1198, § 5.