SENATE COMMITTEE ON LOCAL GOVERNMENT
Senator María Elena Durazo, Chair
2025 - 2026 Regular

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Author:	Wilson	**Fiscal:**	Yes
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VALLEJO FLOOD AND WASTEWATER DISTRICT: TRUSTEES

Makes changes to the board composition and compensation of the enabling act of Vallejo Flood and Wastewater district.

Background

California state and local officials who negotiate, make, or vote on public contracts are subject to two main conflicts of interest laws: Section 1090 et seq. of the Government Code (known simply as "Section 1090") and the Political Reform Act of 1974.

Section 1090. Section 1090 formalized the longstanding common law rule prohibiting public officials—including board members, officers, and employees—from having a personal financial interest in the contracts they participate in awarding while exercising their official capacities. Financial interest has been liberally interpreted by the courts and includes the property and income of a public official's spouse. The consequences of violating Section 1090 are severe: a contract that runs afoul of the law is void, even if the affected official did not intend to receive a personal benefit. Willful violators can also face criminal penalties ranging from fines to prison time, plus a lifetime ban on holding public office.

Section 1090 contains several exceptions. In particular, state law identifies 18 situations that do not constitute financial interests, but that present some risk of undue influence. These "remote interests" include when a public contract would financially benefit a public official's minor child or a nonprofit corporation at which a public official is also a non-salaried officer. Section 1090 requires an official with a remote interest to publicly disclose their interest, note the interest in the public record, and abstain from voting on the contract or influencing the other board members. The government body on which they sit may only approve the contract if there are sufficient votes to pass it without the interested official. Thus, only public officials that sit on multi-member boards may use the remote interest exception; officers and employees may not. The courts and the Attorney General have found there is an additional, non-statutory exception to Section 1090: a "rule of necessity" that allows an interested public official to participate in a contract if (1) the government agency must contract for essential services but no other source is available, and (2) the board or official is the only authority that can legally act on the matter.

The Political Reform Act. In 1974, California voters passed Proposition 9 to create the Political Reform Act (PRA), along with the Fair Political Practices Commission (FPPC), the agency tasked with enforcing the PRA through administrative and civil penalties. In 2013, the Legislature expanded the FPPC's jurisdiction to include Section 1090 (AB 1090, Fong). The PRA is broader than Section 1090 because it prohibits any state or local public official from using his or her official position to influence any "governmental decision" in which the official has a financial interest. The PRA also applies to decisions that will have a material financial effect on a member of the official's "immediate family," which the Legislature has defined as a government official's spouse or dependent children. The PRA supersedes most other conflict of interest laws, including Section 1090, in the case of an inconsistency. Public officials must therefore consider whether a conflict exists under either the PRA or Section 1090, or both.

Common Law Conflict of Interest. In 1850, California's first Legislature adopted the English common law as the state's basic legal framework, insofar as it did not conflict with state statutes or the state and federal Constitutions. This legal framework remains in place today. Independent of Section 1090 and the PRA, California courts continue to apply the common law doctrine against conflicts of interests to invalidate public contracts tainted by self-dealing, even in situations when Section 1090 or the PRA do not apply. In several recent opinions, the Attorney General's Office has suggested the common law doctrine against conflicts of interest is broader than Section 1090 and the PRA, even prohibiting public contracts that raise only potential conflicts of interest, or even the mere appearance of impropriety. For example, the Attorney General has opined that a contract that benefits the adult child of a public official might be prohibited under common law, even though neither the PRA nor Section 1090 consider it a financial interest. Courts can void a contract that violates this common law doctrine.

Incompatible office law. SB 274 (Romero, 2005) codified the common law rule against public officials holding incompatible offices. Incompatible office law generally prohibits a public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body from simultaneously holding two public offices that are incompatible. A public office is incompatible when any of the following circumstances are present:

- Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisor powers over the other office or body;
- Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices; or
- Public policy considerations make it improper for one person to hold both offices.

Notwithstanding these circumstances, state law can expressly authorize the simultaneous holding of the particular offices. When a public officer takes on a second office that is incompatible, state law deems they forfeit the first office.

Vallejo Flood and Wastewater District (VFWD). In 1952, the Legislature created the Vallejo Sanitation and Flood Control District in Solano County. The governing board consisted of four members: two Solano county supervisors, and two City of Vallejo councilmembers. In 1955, Vallejo Sanitation and Flood Control District board increased to five, adding one public member at-large. Each member received a compensation of $100 per meeting, not to exceed $600 a month. In 1995, City of Vallejo and Vallejo Sanitation and Flood Control District sponsored legislation to change the board composition to eight board members: seven councilmembers from the City of Vallejo and one member at-large (AB 1388, Brown). The Solano County Board of Supervisors appoint the one member at-large who is either a Solano County Supervisor from the 1st or 2nd District or a resident that lives within the unincorporated area of the district. AB 1388 also reduced the compensation to $100 per meeting, not to exceed $300 a month for the one member at large and alternates. The City of Vallejo councilmembers are compensated $100 a month for their service and expenses. In 2017, the district was renamed to Vallejo Flood and Wastewater District (VFWD) (SB 205, Senate Governance and Finance Committee).

VFWD is a special district responsible for providing wastewater collection and treatment services, as well as flood control and stormwater management, within its service boundaries which include the City of Vallejo and portions of the surrounding unincorporated area of Solano County. VFWD plays an essential role in protecting public health, maintaining critical infrastructure, and managing flooding and wastewater impacts for residents and businesses within its jurisdiction. VFWD reports the current governance model has created operational and legal complexities, particularly in circumstances involving negotiations, litigation, fiduciary responsibilities, and matters implicating attorney-client privilege between the City of Vallejo and the district. While trustees recuse themselves from individual matters, overlapping governing responsibilities can still create governance challenges and quorum concerns that complicate VFWD operations and decision-making.

VFWD wants to change its governing board similar to when it was first enacted in 1952.

Proposed Law

Assembly Bill 912 modifies VFWD's governing board to comprise:

- Two trustees and an alternate appointed by and selected from among the councilmembers of the City of Vallejo;
- One trustee and an alternate appointed by, and selected from among, the County board of supervisors of Solano County. The appointed trustee must reside within the boundaries of VFWD and the appointed alternate must be a member whose supervisorial district includes territory within the boundaries of VFWD; and
- Two at-large trustees, appointed by the majority of the remaining members of the board of trustees, who reside within the boundaries of VFWD and each is neither a city councilmember of the City of Vallejo nor a member of the board of supervisors of Solano County.

The appointment of the two at-large trustees is subject to Local Appointment List requirements, which prescribe rules for public member seats and filling unscheduled vacancies of boards, commissions, or committees for which the legislative body has appointing power. AB 912 also states the first term of the first at-large trustee is until December 31, 2027, and is appointed to a four-year term thereafter. The first term of the second at-large trustee is until December 31, 2029, and is appointed to a four-year term thereafter.

AB 912 also allows the district to compensate each trustee or alternate $100 for each district meeting, not to exceed $300 a month. It repeals the ability of members of the City of Vallejo to receive $100 a month for their services and expenses.

AB 912 makes other technical changes.

Comments

1. Purpose of the bill. According to the author, "AB 912 proposes amendments to the Vallejo Flood and Wastewater District's Enabling Act to modernize the composition of the District's

Board of Trustees and improve governance efficiency, responsiveness, and operational effectiveness. The bill would modify the Board's composition to reduce governance conflicts, improve fiduciary independence, and ensure the District can continue to effectively manage long-term infrastructure and service responsibilities."

2. Back to the future. The original enabling act for VFWD established a balanced governance structure with the City of Vallejo and County of Solano with each appointing two trustees to the governing board. AB 1388 subsequently revised this structure by expanding the governing board to include the full City of Vallejo council and one at-large member. When these changes took effect, the City of Vallejo experienced significant growth and annexation, resulting in VFWD's boundaries becoming largely contiguous with the city. In addition, the County of Solano indicated at the time they had a desire to reduce its role on the district board as they were currently serving as decision-makers in an area of which they had limited jurisdiction. According to VFWD, the current governance structure has created practical challenges. Because more than the majority of the board also serve as councilmember for the city of Vallejo, conflicts of interest frequently require recusals, making it difficult to achieve a quorum and conduct district business. AB 912 seeks to address these governance challenges by revising the board structure to improve the district's ability to conduct its affairs, maintain continuity of operations, and continue providing services to the public.

3. Gut and amend. As introduced and approved by the Assembly, AB 912 contained provisions related to a pilot civil service apprenticeship program for people with disabilities. Amendments taken in the Senate deleted the initial contents of AB 912 and inserted the current language relating to Vallejo Flood and Wastewater District.

Assembly Actions

Prior votes not relevant to the current version of the bill.

Support and Opposition (6/26/26)

Support: Vallejo Flood and Wastewater District (Sponsor)
City of Vallejo
County of Solano

Opposition: None Submitted

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