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BOARD OF SUPERVISORS
EL DORADO COUNTY

1. AGENDA ITEMS REQUIRING FOUR OR MORE VOTES FOR PASSAGE

AGENDA ITEMS REQUIRING FOUR (OR MORE) VOTES OF

BOARD OF SUPERVISORS

Listed below are the items likely to appear on the Board of Supervisors' agenda which require four or more votes. In citing the related State code, the following abbreviations will be used:

G.C. - Government Code

S & H - Streets and Highway Code

P.C.C. - Public Contract Code

C.C.P. - Code of Civil Procedure

A. Appropriation (Budget) Transfers

1. Transfers from the Contingency Fund (GC 29130)
2. Transfers of unanticipated revenue (GC 29130)
3. Appropriations for an emergency (GC 29127)
4. Exceeding budget in emergencies (GC 53792)

B. Board Agenda

1. To consider item not on Agenda where need arose after Agenda was posted (GC 54954.2(b)(2))
2. To waive reading of Ordinance in full - unanimous vote (GC 25131)

C. Planning Matters

1. Adoption of interim zoning ordinance as urgency measure (GC 65858)

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D. General Matters

1. **Contracts, changes or alterations which increase costs over the maximum allowed without advertising but are less than 10% of the original contracts (PCC 20137)**
2. **Plans and specifications, for public buildings or structures, when changes increase costs (PCC 20135)**
3. **Bridge construction contracts, modification of contract or plans (PCC 20405)**
4. **Cooperation with cities in road work (S & H 1680)**
5. **City Streets - designation as a county highway (S & H 1700)**
6. **County roads, improvement through use of the General Fund monies (S & H 1070)**
7. **Private roads, improvement and repair with county funds (S & H 969.5)**
8. **Road equipment, leasing of (S & H 942)**
9. **Rights of Way Revolving Fund, establishment of (S & H 1627)**
10. **Sale or lease of County property, adoption of resolution of intention to (GC 25526)**
11. **Leasing of certain County property for certain specified usage, (GC 25536); Amendment of lease of contract (GC 25536.5)**
- *12. **Parks, resolution of intention to abandon all or part - 5 votes (GC 25583)**
13. **Condemnation Proceeding (CCP 1245.240)**
14. **County property, conveyance or exchange of to another governmental agency (GC 25365)**

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- *15. County property, conveyance to cities for park purposes without reimbursement - 5 votes, (GC 25550 and 25550.5); County aid to cities for park purposes - 5 votes, (GC 25553); Dedication of unused parklands - 4 votes, (GC 25560.4)
16. Property acquisition for airport purposes by purchase, condemnation or lease; Resolution for County aid (GC 26021)
17. Airports, contribution of funds to U.S. Government (GC 26026)
18. Special Assessment District, exceptions to proceedings relating to sanitary projects (S & H 2808)
19. 1911 Act, Majority Protest, over-ruling of protest (S & H 5222)
20. County sanitation, maintenance and flood control district loans, establishment of revolving fund (GC 23014)
21. County Service Area Loans, establishment of revolving fund for making loans (GC 25210.9c)
22. County Service Area, extension of period for repayment of loans (GC 25210.9b)
23. Investment of Retirement Funds in real property sold or leased to County, requires unanimous vote of Board of Retirement and 4/5 vote of Board of Supervisors (GC 31601) Repealed 1984
24. Records, destruction of original records which have not been microfilmed (G.C. 26202)
25. Delinquent Accounts - Assignment to a collection agency (GC 26220)
26. Emergency Ordinance for preservation of public peace, health or safety - to become effective immediately (normally requires 30 days for ordinance to become effective) (GC 25123 and Election Code 3751)
27. Destruction of records exposed to asbestos (GC 26202.5)

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28. Adopt or amend a general plan element, zoning ordinance, building regulation or airport master plan that has been found by the Airport Land Use Commission to be inconsistent with the adopted Airport Land Use Plan (PUC 21676)
- *29. Replacement of annual Special Audit with a biennial audit for Special Districts. Requires unanimous request of governing board, and unanimous approval of the Board of Supervisors (GC 26909(e))
30. Employ counsel to assist District Attorney, County Counsel or other counsel for the county (GC 25203)
31. Conveyance of property not valued more the \$500; Auction sale of unneeded property (GC 25363)
- *32. Conveyance of real property to Hospital District - 5 votes; Grant of capital outlay fund to Hospital District - 4 votes (GC 25368)
33. Alteration of public building plans, (PCC 20135); Alteration of public building contract, (PCC 20136); Alteration of public building contract amount (PCC 20137)
34. Resolution negating public bidding (PCC 20150.10)
35. Wildflower reserves (GC 25600); Abolition of Board of Forestry (GC 25638)
36. Conveyance to Ag. Assoc. for fairground (GC 50332)
37. Authorizing condemnation (CCP 1241) Repealed 1975

*Requires unanimous vote.

[NOTE: This is a partial listing.]

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**§ 2.2.2. VOTING BY BOARD MEMBER WHO WAS ABSENT -
LEGISLATIVE VERSUS QUASI-JUDICIAL ACTS**

**VOTING BY PUBLIC OFFICERS IN THOSE INSTANCES WHERE THEY WERE
ABSENT WHILE ALL OR PART OF THE EVIDENCE/DISCUSSION
WAS CONSIDERED**

At public meetings of the Board of Supervisors, Planning Commission, and other County bodies, the situation will sometimes arise where a member will be absent during all or a part of the public hearing, or during the discussion of a matter that does not require a public hearing. This short memorandum is provided as a guide to aid members of County bodies in determining what steps will be necessary before an absent member may participate in voting on the matter involved.

TWO BASIC RULES

RULES:

1. If the public body is acting in a legislative or quasi- legislative capacity, then a member thereof may vote on the matter even though he missed all or part of the discussion or public hearing.

2. If the public body is acting in a judicial or quasi- judicial capacity, then a member cannot vote unless he considers and appraises the evidence himself sometime prior to participating in the decision.

a. A member may still vote even if absent during the hearing/meeting if prior to voting, he has the opportunity to review the evidence that was presented to the public body in his absence. He can, for example, listen to the tape of the meeting or read minutes or notes prepared by a transcribing secretary, as well as review any documentary evidence submitted.

DEFINITION AND EXAMPLES OF LEGISLATIVE VERSUS QUASI-JUDICIAL ACTS:

The terms "legislative" and "quasi-judicial" are not exact. It is clear from the language of the courts that precise distinctions of general application do not apply. Except for the well recognized characterizations listed below as examples, the determination of whether action is adjudication, quasi-judicial, legislative or quasi-legislative, executive, administrative, or ministerial, is largely left to a case by case interpretation. For guidance, however, it can generally be said that acts constituting the declaration of public purpose and making provision for ways and means of its accomplishment are classified as calling for the exercise of legislative power, while acts which are necessary to be done to carry out legislative policies and purposes already declared by the legislative body, or such as are devolved upon it by the organic law of its existence, are deemed as acts of administration and classed among those

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LEGISLATIVE VERSUS QUASI-JUDICIAL ACTS**

governmental powers properly referred to as executive. To be distinguished are acts of a quasi-judicial nature. The essential characteristic of a quasi-judicial body is its fact finding power and the concomitant requirement to make a determination or adjudication of fact in connection with matters properly submitted to it after a hearing.

The following list of examples is not all inclusive but intended only as a guide:

1. Legislative Acts; Administrative Acts of a Non-Judicial Character.

- a. Enactment of ordinances
- b. Adoption of plans such as the general plan, solid waste management plan, etc.
- c. Resolution approving agricultural preserves
- d. Purchase or sale of property
- e. Letting of contracts

2. Quasi-Judicial Acts:

- a. Grant or denial of a variance
- b. Grant or denial of a development plan
- c. Approval or denial of real property divisions
- d. Certification of EIR
- e. The hearing of appeals
- f. Hearings re closure, suspension or revocation of permits, licenses or franchises
- g. Nuisance abatement hearings
- h. Pension trust disability retirement hearings
- i. Civil Service appeal hearings re evaluations or disciplinary action

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