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## OFFICE OF THE COUNTY COUNSEL

### MEMORANDUM

**DATE:** December 14, 2021  
**TO:** Board of Supervisors  
**FROM:** Christian M. Curtis, County Counsel *CMC*  
**SUBJECT:** Agenda Item 5h) – Consolidating the Offices of the Auditor-Controller and the Treasurer-Tax Collector

On November 15, 2021, the Mendocino County Board of Supervisors considered a possible ordinance consolidating the offices of the Auditor-Controller and the Treasurer Tax Collector. Although the Board decided that it was going to introduce the ordinance at this time, it was undecided as to whether it wanted to proceed with consolidation of the offices and decided to defer that decision to the second meeting in December. In particular, the Board indicated that it felt it needed more information before making a final decision. For that reason, County Counsel is providing some additional background information on the relevant legal structures.

#### Prevalence of Consolidation

Previously, the Board had questions as to how common the consolidation model is. The current form of consolidation that the Board is considering is authorized by Government Code section 24304.2 for the Counties of Lake, Mendocino, Santa Cruz, Sonoma, Trinity, and Tulare. Of those, Santa Cruz, Sonoma, and Tulare appear to have adopted a consolidated model, while Lake, Mendocino, and Trinity have not. Additionally, although Counsel has not performed an exhaustive search, it appears that the Counties of Fresno and Yolo have consolidated these positions via other legal mechanism (such as charter), and the Counties of Glenn, Kings, Sacramento, and Santa Clara have adopted a Director of Finance Model, which inherently consolidates the functions of Auditor, Controller, Treasurer, and Tax Collector into a single office.

#### Duties and Qualifications

Attached for the Board's consideration in a non-exhaustive list of the statutory duties of the Auditor, Controller, Treasurer, and Tax Collector. Additionally, Counsel has attached a list of the statutory qualifications for the relevant positions.

CMC/jc

# Statutory Duties of the Auditor-Controller and Tax Collector

<u>Controller Statutory Duties</u>	<u>Tax Collector Statutory Duties</u>
<p><b>Gov. Code § 26882</b> In addition to the accounts required by law the auditor–controller shall, upon order of the board of supervisors, maintain such accounts and statistics and prepare such reports therefrom as the board may deem necessary for its information and use.</p>	<p><b>Gov. Code §27400</b> The tax–collector is ex officio license–collector, and as license–collector shall collect all county licenses and perform the duties prescribed by law and by the ordinances of the board of supervisors.</p>
<p><b>Gov. Code § 26883</b> As required by the Board of Supervisors, audit the accounts and records of any department, office, board or institution under its control and of any district whose funds are kept in the county treasury. The county auditor–controller’s report on any such audit shall be filed with the board of supervisors and, if the report discloses fraud or gross negligence a copy thereof shall be filed with the district attorney.</p>	<p><b>Gov. Code § 27401</b> At least once a month the tax collector shall pay the public money in his hands into the county treasury, taking the receipt of the treasurer therefor.</p>
<p><b>Gov. Code § 29005</b> Promulgate rules, regulations, and classifications as necessary and commensurate with the accounting procedures for counties.</p> <p>Prescribe the forms required to be used in presenting the required information in the budget document after consultation with the Committee on County Accounting Procedures, which committee is provided for in Section 30201. Any county may add to the information required, or display it in more detail.</p>	
<p><b>Rev. &amp; Tax Code § 2601 et seq.</b> Preparation of tax roll and delivery to Tax Collector.</p>	<p><b>Rev. &amp; Tax Code § 2601 et seq.</b> Collection of taxes on the tax roll.</p>

# Statutory Duties of the Auditor and Treasurer

<u>Auditor Statutory Duties</u>	<u>Treasurer Statutory Duties</u>
<p style="text-align: center;"><b>Gov. Code § 26881</b></p> <p>Serve as the chief accounting officer of the county. Upon order of the board of supervisors, the auditor or auditor-controller shall prescribe, and shall exercise a general supervision, including the ability to review departmental and countywide internal controls, over the accounting forms and the method of keeping the accounts of all offices, departments and institutions under the control of the board of supervisors and of all districts whose funds are kept in the county treasury.</p>	<p style="text-align: center;"><b>Gov. Code § 27000</b></p> <p>The county treasurer shall receive and keep safely all money belonging to the county and all other money directed by law to be paid to him and apply and pay it out, rendering the account as required by law.</p>
<p style="text-align: center;"><b>Gov. Code § 26900</b></p> <p>The auditor shall examine and settle the accounts of any persons indebted to the county or holding money payable into the county treasury, and shall certify the amount to the treasurer. Upon the presentation and filing of the treasurer's receipt therefor, the auditor shall give to such person a discharge and charge the treasurer with the amount received by him.</p>	<p style="text-align: center;"><b>Gov. Code § 27000.1</b></p> <p>The board of supervisors may, by ordinance, delegate to the county treasurer the authority to invest or reinvest the funds of the county and the funds of other depositors in the county treasury.</p>
<p style="text-align: center;"><b>Gov. Code § 26901</b></p> <p>The county auditor may require any person or officer indebted to the county or holding money payable into the county treasury to make an oath as to the total amount of money payable by him to the county or into the county treasury, and on what account.</p>	<p style="text-align: center;"><b>Gov. Code § 27000.3</b></p> <p>Serves as a fiduciary or agent with respect to County funds. Within the limitations of this section and considering individual investments as part of an overall investment strategy, investments may be acquired as authorized by law.</p>
<p style="text-align: center;"><b>Gov. Code § Gov. Code § 26904</b></p> <p>The auditor shall keep accounts current with the treasurer, and when any person deposits with the auditor any receipt given by the treasurer for any money paid into the treasury, the auditor shall file the receipt and charge the treasurer with the amount.</p>	<p style="text-align: center;"><b>Gov. Code § 27001</b></p> <p>The treasurer shall file and keep the certificates of the auditor delivered to him or her when money is paid into the treasury.</p>

<p><b>Gov. Code § 26905</b></p> <p>Not later than the last day of each month, the auditor shall reconcile the cash and investment accounts as stated on the auditor's books with the cash and investment accounts as stated on the treasurer's books as of the close of business of the preceding month to determine that the amounts in those accounts as stated on the books of the treasurer are in agreement with the amounts in those accounts as stated on the books of the auditor.</p>	<p><b>Gov. Code § 27002</b></p> <p>The treasurer shall keep an account of the receipt and expenditure of all money received or paid out by him or her in books provided for the purpose. He or she shall enter in the books the amount, the time, from whom, and on what account all money was received by him or her, and the warrant number, the amount, time, and on what account all disbursements were made by him or her.</p>
<p><b>Gov. Code § 26906.1</b></p> <p>The county auditor, with the approval of the board of supervisors, may impound the disputed revenues of any tax upon secured or unsecured property, levied and collected by the county for the county or any revenue district</p>	<p><b>Gov. Code § 27003</b></p> <p>The treasurer shall keep his or her books or any other authorized form of record so that the amounts received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole receipts and expenditures shown in one general or cash account.</p>
<p><b>Gov. Code § 29324</b></p> <p>Upon the filing of the required bond the auditor shall draw his warrant in favor of the officer for whose benefit the revolving fund is created, and the treasurer shall pay the warrant.</p>	<p><b>Gov. Code §§ 27005-27006</b></p> <p>The treasurer shall disburse the county money and all other money placed in his or her custody by official authority only on county warrants, checks, or electronic fund transfers issued by the county auditor, except for the making of legal investments. The treasurer shall disburse the money in the treasury on county warrants only when they are based on orders of the board of supervisors, upon order of the superior court, or as otherwise provided by law.</p>
<p><b>Gov. Code § 26909</b></p> <p>The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided. In each case, the minimum</p>	<p><b>Gov. Code § 27007</b></p> <p>The treasurer shall keep all money belonging to the State, or any county of the State in his own possession until disbursed according to law. He shall not place the money in the possession of any person to be used for any purpose, nor shall he loan or in any manner use, or permit any person to use it, except as provided by law. This section does not prohibit him from making</p>

requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.	special deposits for the safe-keeping of public money, but he is liable therefor on his official bond.
<p style="text-align: center;"><b>Gov. Code § 26910</b></p> <p>The auditor may at any reasonable time and place examine the books and records of any special purpose assessing or taxing district located wholly in the county.</p>	<p style="text-align: center;"><b>Gov. Code § 27008</b></p> <p>(a) The treasurer shall not receive money into the treasury or for deposit with him or her as treasurer, unless it is accompanied by the certificate of the auditor.</p> <p>(b) Notwithstanding subdivision (a), the auditor and treasurer may establish alternate control procedures for the treasurer to receive or deposit money without the certificate of the auditor.</p>
<p style="text-align: center;"><b>Gov. Code §§ 26920 &amp; 26922</b></p> <p>(a) At least once in each quarter, the county auditor shall perform, or cause to be performed, a review of the treasurer's statement of assets in the county treasury . . . The treasurer shall prepare a statement showing the amount and type of assets in the county treasury as of the date of the review. The review shall include:</p> <p>(1) Counting cash in the county treasury.</p> <p>(2) Verifying that the records of the county treasurer and auditor are reconciled pursuant to Section 26905.</p> <p>(3) A report to the board of supervisors issued in accordance with the appropriate professional standards, as determined by the county auditor.</p> <p>(b) The auditor shall, at least annually, perform or cause to be performed an audit of the assets in the county treasury and express an opinion whether the treasurer's statement of assets is presented fairly and in accordance with generally accepted accounting principles. The audit report shall be addressed to the board of supervisors.</p>	<p style="text-align: center;"><b>Gov. Code § 27009</b></p> <p>The treasurer shall give a receipt to each person who deposits money into the county treasury.</p>
<p style="text-align: center;"><b>Gov. Code § 29043</b></p> <p>The auditor shall provide the estimates for bonded debt service requirements. The auditor shall also provide or furnish to the responsible authority, as applicable, the estimates for bonded debt service requirements of:</p>	<p style="text-align: center;"><b>Gov. Code § 27010</b></p> <p>The treasurer may receive any money constituting gift, bequest, or devise, and pay it out in accordance with the terms thereof, or, if none are fixed, according to law.</p>

<p>(a) School districts.</p> <p>(b) Any special district, the records for which are maintained in the auditor's office as required by law.</p>	
<p style="text-align: center;"><b>Gov. Code § 29044</b></p> <p>The auditor shall provide to the administrative officer or such other official as the board directs, any financial statements, data, or recommendations, if any, for any changes to the estimated financing sources referenced in Section 29040.</p>	<p style="text-align: center;"><b>Gov. Code § 27012</b></p> <p>The Controller may summon county treasurers or the authorized representative of any county treasurer to meet with the Controller or his or her duly authorized representatives, in those groups and at that place or those places within the state as may be designated by the Controller for the purpose of discussing the interpretation, procedures, uniformity of operation, and efficient administration of the Revenue and Taxation Code and the Government Code. The actual and necessary expenses of any county officer or his or her authorized representative that are incurred while traveling to and from or while attending any meeting called pursuant to this section by the Controller shall be a charge against the county, to be paid in the same manner as other county charges are paid, provided that prior approval of the board of supervisors has been obtained.</p>
<p style="text-align: center;"><b>Gov. Code § 29083</b></p> <p>(a) The auditor, or a deputy designated by the auditor, shall attend the public hearing on the recommended budget, and shall furnish the board with any financial statements and data it requires.</p> <p>(b) It shall be the responsibility of the administrative officer or auditor to revise the recommended budget to reflect the actions of the board pertaining thereto in developing the adopted budget document.</p>	<p style="text-align: center;"><b>Gov. Code § 27013</b></p> <p>Notwithstanding any other provision of law, any treasurer, or other authorized county officer, who invests, deposits or otherwise handles funds for public agencies for the purpose of earning interest or other income on such funds as permitted by law, may deduct from such interest or income, before distribution thereof, the actual administrative cost of such investing, depositing or handling of funds and of distribution of such interest or income. Such cost reimbursement shall be paid into the county general fund.</p>
<p style="text-align: center;"><b>Gov. Code § 29100.6</b></p> <p>On or before December 1 of each year, each county auditor shall file with the Controller in such form as the Controller directs, a statement of the amounts of exempt values granted for the</p>	<p style="text-align: center;"><b>Gov. Code §§ 27061 &amp; 27602</b></p> <p>Not later than the tenth of each month the treasurer shall settle his accounts relating to the collection, care, and disbursement of public revenue of whatsoever nature and kind with the auditor.</p>

<p>homeowners' property tax exemption under subdivision (k) of Section 3 and Section 25 of Article XIII of the Constitution for the county, each city and school district or portion thereof within the county, each special district or subdivision or zone thereof or portion thereof within the county, for which a tax levy is carried on the county assessment roll. The auditor shall therein compute and show the total amount of ad valorem tax loss to the county and the cities and districts resulting from the exemption and the statement shall claim such amount against the state for payment of reimbursement.</p>	<p>For the purpose of making his settlement, the treasurer shall make a statement under oath of the amount of money or other property received prior to the period of the settlement, the amount of payments or disbursements, and the amount remaining on hand. In the settlements he shall deposit and take the auditor's receipt for all warrants redeemed by him.</p>
<p><b>Gov. Code § 29103</b></p> <p>It shall be the responsibility of the auditor to calculate the several tax rates for the board's action thereon.</p>	<p><b>Gov. Code §27080</b></p> <p>Any officer required to pay into the county treasury taxes, fees, or other money collected by him may pay the money to the treasurer daily without making an account of the sources from which it was collected. The treasurer and auditor shall credit the officer with the amount paid in without apportioning it to any specific fund. The officer shall also make regular settlements and accounts of his collections monthly or otherwise as required by law and shall be credited with all amounts paid to the treasurer and not included in his previous settlements as so much cash.</p>
<p><b>Gov. Code § 29109</b></p> <p>On or before December 1 of each year, the auditor shall forward to the Controller, in the format prescribed by the Controller, the a statement of the rates of taxation, the assessed valuation as shown on the current equalized assessment roll, and the amount of taxes to be levied and allocated pursuant to the Revenue and Taxation Code.</p>	<p><b>Gov. Code § 27080.1</b></p> <p>May contract with a depository and authorize any county officer, required to deposit into the county treasury all money collected by him or her, to deposit that money directly into the depository with whom the county treasurer has entered into the contract. The county treasurer may also authorize any superior court officer to deposit money collected by the officer that is payable to the county treasury into the depository.</p>
<p><b>Gov. Code § 29124</b></p> <p>If at the beginning of any fiscal year, the budget has not been adopted, the auditor shall approve payments for the support of the various budget units.</p>	<p><b>Gov. Code § 27082</b></p> <p>Upon receiving from the coroner money found on a dead body, the treasurer shall place it to the credit of the county. The money shall be credited to a separate trust fund or trust account. If the</p>

	<p>legal representatives of the decedent demand the money in the treasury belonging to the decedent within six years, the treasurer shall pay it to them, after deducting the fees and expenses of the coroner and of the county in relation to the matter, or the money may be paid at any time thereafter upon the order of the board of supervisors.</p>
<p><b>Gov. Code § 29126.2</b></p> <p>The auditor may review and issue reports and make recommendations regarding estimated financing sources, or actual financing sources, or both, and the status of appropriations. The auditor shall submit to the board, and any other official the board may designate, a statement showing this information with respect to the condition of each separate budget appropriation and to the condition of estimated financing sources, as the board requires.</p>	<p><b>Gov. Code § 27100.1</b></p> <p>Notwithstanding any other provision of law, when any public entity or any public official acting in a fiduciary capacity, who is required or authorized by law to deposit funds in the county treasury, makes a deposit, those funds shall be deemed to be held in trust by the county treasurer on behalf of the depositing entity or public official. The funds shall not be deemed funds or assets of the county and the relationship of the depositing entity or public official and the county shall not be one of creditor–debtor.</p>
<p><b>Gov. Code § 29854</b></p> <p>The auditor and treasurer shall each make the proper entries on their respective books, showing that the warrant is lost or destroyed and that a duplicate warrant has been issued.</p>	<p><b>Gov. Code § 29854</b></p> <p>The auditor and treasurer shall each make the proper entries on their respective books, showing that the warrant is lost or destroyed and that a duplicate warrant has been issued.</p>



**State of California**

**GOVERNMENT CODE**

**Section 26945**

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26945. No person shall hereafter be elected or appointed to the office of county auditor of any county unless the person meets at least one of the following criteria:

(a) The person possesses a valid certificate issued by the California Board of Accountancy under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code showing the person to be, and a permit authorizing the person to practice as, a certified public accountant or as a public accountant.

(b) The person possesses a baccalaureate degree from an accredited university, college, or other four-year institution, with a major in accounting or its equivalent, as described in subdivision (a) of Section 5081.1 of the Business and Professions Code, and has served within the last five years in a senior fiscal management position in a county, city, or other public agency, a private firm, or a nonprofit organization, dealing with similar fiscal responsibilities, for a continuous period of not less than three years.

(c) The person possesses a certificate issued by the Institute of Internal Auditors showing the person to be a designated professional internal auditor, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(d) The person has served as county auditor, chief deputy county auditor, or chief assistant county auditor for a continuous period of not less than three years.

(Amended by Stats. 2000, Ch. 1055, Sec. 37. Effective September 30, 2000.)

**State of California**

**GOVERNMENT CODE**

**Section 26945.1**

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26945.1. (a) Any person serving in the capacity of county auditor shall complete at least 40 hours of qualifying continuing education, pursuant to subdivision (b), for each two-year period, beginning January 1, 1998, and completing at least 10 hours in each year of the two-year period. At least 20 of the 40 hours of continuing education shall be obtained in governmental accounting, auditing, or related subjects.

(b) Qualifying continuing education may be obtained in the areas of accounting, auditing, or related subjects. In addition, qualifying continuing education may be obtained in any other subject, if it can be demonstrated that the specific educational program contributes to professional competence.

(c) With respect to a county auditor who is a licensee of the California Board of Accountancy, or of the accountancy licensing authority of any other state, or who possesses a certificate issued by the Institute of Internal Auditors, continuing education obtained for purposes of renewal of the license or certificate may be applied to satisfy the requirements of this section.

(Added by Stats. 1997, Ch. 381, Sec. 2. Effective January 1, 1998.)

**State of California**

**GOVERNMENT CODE**

**Section 26946**

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26946. The provisions of this article shall become effective in only those counties in which, prior to the first day of the period for filing declarations of candidacy for the office of county auditor, the board of supervisors by a unanimous vote, at a regular meeting with all members present, enacts an ordinance adopting the provisions of this article. The ordinance so adopted may be repealed by the board of supervisors at any time.

(Amended by Stats. 1997, Ch. 381, Sec. 3. Effective January 1, 1998.)

**State of California**

**GOVERNMENT CODE**

**Section 27000.6**

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27000.6. The provisions of Sections 27000.7, 27000.8, and 27000.9 shall become effective only in those counties in which, prior to the first date of the period for filing declarations of candidacy for the office of county treasurer, county tax collector, or county treasurer-tax collector, the board of supervisors by majority vote at a regular meeting with all members present, enact an ordinance adopting the provisions of those sections. That ordinance may be repealed by the board of supervisors at any time.

(Added by Stats. 1995, Ch. 784, Sec. 6. Effective January 1, 1996.)

**State of California**

**GOVERNMENT CODE**

**Section 27000.7**

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27000.7. (a) No person shall be eligible for election or appointment to the office of county treasurer, county tax collector, or county treasurer-tax collector of any county unless that person meets at least one of the following criteria:

(1) The person has served in a senior financial management position in a county, city, or other public agency dealing with similar financial responsibilities for a continuous period of not less than three years, including, but not limited to, treasurer, tax collector, auditor, auditor-controller, or the chief deputy or an assistant in those offices.

(2) The person possesses a valid baccalaureate, masters, or doctoral degree from an accredited college or university in any of the following major fields of study: business administration, public administration, economics, finance, accounting, or a related field, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(3) The person possesses a valid certificate issued by the California Board of Accountancy pursuant to Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code, showing that person to be, and a permit authorizing that person to practice as, a certified public accountant.

(4) The person possesses a valid charter issued by the Institute of Chartered Financial Analysts showing the person to be designated a Chartered Financial Analyst, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(5) The person possesses a valid certificate issued by the Treasury Management Association showing the person to be designated a Certified Cash Manager, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(b) This section shall only apply to any person duly elected or appointed as a county treasurer, county tax collector, or county treasurer-tax collector on or after January 1, 1998.

(Amended by Stats. 2000, Ch. 1055, Sec. 38. Effective September 30, 2000.)

**State of California**

**GOVERNMENT CODE**

**Section 27000.8**

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27000.8. Any duly elected county treasurer, county tax collector, or county treasurer-tax collector serving in that office on January 1, 1996, may serve for his or her remaining term of office during which period of time the requirements of this section shall not apply. After the election of a county treasurer, county tax collector, or county treasurer-tax collector to office, that person shall complete a valid continuing course of study as prescribed in this section, and shall during the person's four-year term of office on or before June 30 of the fourth year, render to the Controller a certification indicating that the person has successfully completed a continuing education program consisting of, at a minimum, 48 hours, or an equivalent amount of continuing education units within the discipline of treasury management, tax collection, public finance, public administration, governmental accounting, or directly related subjects, offered by a recognized state or national association, institute, or accredited college or university, or the California Debt and Investment Advisory Commission, that provides the requisite educational programs prescribed in this section. The willful or negligent failure of any elected county treasurer, county tax collector, or county treasurer-tax collector to comply with the requirements of this section shall be deemed a violation of this section.

(Amended by Stats. 2012, Ch. 696, Sec. 1. (AB 2131) Effective January 1, 2013.)

**State of California**

**GOVERNMENT CODE**

**Section 27000.9**

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27000.9. Notwithstanding any other requirement of law, any duly appointed county officer serving in the capacity of county treasurer, county tax collector, or county treasurer-tax collector shall, beginning in 2000, complete a valid continuing course of study as prescribed in this section, and shall, on or before June 30 of each two-year period, render to the Controller, a certification indicating that the county officer has successfully completed a continuing education program consisting of, at a minimum, 24 hours or an equivalent amount of continuing education units within the discipline of treasury management, tax collection, public finance, public administration, governmental accounting, or directly related subjects, offered by a recognized state or national association, institute, or accredited college or university, or the California Debt and Investment Advisory Commission, that provides the requisite educational programs prescribed in this section. The willful or negligent failure of any county officer serving in the capacity of county treasurer, county tax collector, or county treasurer-tax collector to comply with the requirements of this section shall be deemed a violation of this section.

(Amended by Stats. 2012, Ch. 696, Sec. 2. (AB 2131) Effective January 1, 2013.)