

ussion of the transcript part of  
is the statute provides that the  
id by the county when ordered  
: authority of *Gross v. Superior*  
ered Sex Offenders proceedings  
ent that section 69952, Govern-

e comparable to criminal cases  
ble, is the provision in section  
paid out of the county treasury  
the reporter's monthly salary is  
l cases in Superior Court? We  
sections 69952 and 69991 and  
f 69952 in this situation.

rs to "reporting" and section  
ical meaning should be ascribed  
is followed by the phrase "and  
he taking of testimony and the  
context can mean nothing but  
o sections.

hat:  
es in criminal cases in the  
nthly salary of six hundred  
with a population of more  
ined by the 1940 federal  
d dollars (\$500). All other  
vided by law." (Emphasis

determined by the 1940 federal  
ignated in section 69991. The  
ry for taking notes in the crim-  
at the rule of the *Gross* case is  
lude that the reporter's monthly  
Mentally Disordered Sex Offend-  
y the *Gross* case as of criminal  
such monthly salary is payable  
icy between sections 69952 and

eration of the opposite conclu-  
n part that:  
shall be paid by the parties  
ption may pay the whole."

As section 69953 is restricted to civil cases, the legislative intent to prorate the reporters' fees is practicable. But in the instant case, where a quasi-criminal proceeding is involved, the People are the plaintiff and the convicted offender is the defendant. Furthermore, the judge has directed the county to pay the reporter's fee. In such a situation, it would be meaningless to direct the defendant to pay his share of the fee, as well as being contrary to section 69952 which directs "the fee" to be paid from the county treasury and does not mention a division of the fee.

Therefore, it is concluded that Mentally Disordered Sex Offenders proceedings are comparable to criminal cases at least to the extent that section 69952, Government Code, is applicable as to the payment of reporters' fees for taking notes, and that in the County of Santa Barbara a court reporter may only receive his usual salary due under section 69991 for taking notes during the subject proceedings.

Opinion No. 64-130—June 9, 1964

**SUBJECT: LOCAL AGENCY FORMATION COMMISSIONS**—Local agency formation commissions do not have jurisdiction over formation of county service areas or county maintenance districts.

**Requested by: COUNTY COUNSEL, SACRAMENTO COUNTY**

**Opinion by: STANLEY MOSK, Attorney General**  
Lloyd Hinkelman, Deputy.

The Honorable John B. Heinrich, County Counsel of Sacramento County, has requested an opinion on the following question:

Do local agency formation commissions have jurisdiction over the formation of county service areas and county maintenance districts?

The conclusion is:

Local agency formation commissions do not have jurisdiction over the formation of county service areas or county maintenance districts.

ANALYSIS

The Legislature in 1963 created local agency formation commissions (hereinafter referred to as formation commissions) for each of the counties of the State by enacting California Statutes 1963, Chapters 1808 and 1810.<sup>1</sup> This legislation is found in chapter 6.5 (commencing with section 54750) and chapter 6.6 (commencing with section 54775) of Part 1, Division 2, Title 5, of the Government Code. (All section references are to this code unless otherwise specified.) The apparent purposes of formation commissions are to approve or disapprove all proposals for the formation and/or annexation of territory to cities and special

\*<sup>1</sup>Chapter 1808 created local agency formation commissions while chapter 1810 created local agency annexation commissions for each of the counties of the State. Chapter 1808 provided that in the event both acts became law that only formation commissions would be formed and no annexation commissions created. The formation commissions in addition to the powers vested in them, were also vested with all the powers granted to the annexation commissions. These chapters are not applicable to the City and County of San Francisco.

districts within the county. §§ 54760, 54780. They are also empowered to adopt standards and procedures for the evaluation of proposals for the annexation and creation of cities or special districts. §§ 54760, 54780.

The specific powers of formation commissions are set forth in sections 54760 and 54780 which provide as follows:

54760: "The commission shall have the following powers and duties:

(1) To review and approve or disapprove, with or without amendment, wholly, partially or conditionally, proposals for the annexation of territory to local agencies within the county.

(2) To adopt standards and procedures for the evaluation of proposals for the annexation of territory to local agencies within the county."

54780: "The commission shall have the following powers and duties subject to the limitations upon its jurisdiction herein set forth:

(1) To review and approve or disapprove with or without amendment, wholly, partially or conditionally, the following:

(a) Proposals for the incorporation of cities.

(b) Proposals for the creation of special districts.

(2) To adopt standards and procedures for the evaluation of proposals for the creation of cities or special districts."

Section 54775 as pertinent herein provides as follows:

54775: "As used in this chapter:

\* \* \*

(b) 'Special district' means an agency of the State for the local performance of governmental or proprietary functions within limited boundaries. 'Special district' does not include the State, a city, a county, or a school district. 'Special district' does not include a special assessment district formed under the Improvement Act of 1911, the Municipal Improvement Act of 1913, the Street Opening Act of 1903, the Vehicle Parking District Law of 1943, the Parking District Law of 1951, the Pedestrian Mal Law of 1960, or similar assessment law, or similar procedural ordinance adopted by a chartered city. 'Special district' does not include an improvement district or zone formed for the sole purpose of designating an area which is to bear a special tax or assessment for an improvement benefiting that area."

Section 54775 excludes a number of governmental agencies from the jurisdiction of formation commissions by designating such governmental agencies as not being special districts.<sup>2</sup> Included in this category are counties and special assessment

<sup>2</sup>Section 54750 found in Chapter 6.5, Part 1, Division 2, Title 5, relating to local agency annexation commissions, defines a special district as "... an agency of the State for the local performance of governmental or proprietary functions within limited boundaries. 'Special district' does not include the State, a city, a county, or a school district." We are not required herein to determine what effect, if any, this section has with respect to the formation commission law. However, under either this section or section 54775, counties are excluded from the jurisdiction of formation commissions and likewise as hereinafter discussed, county service areas and maintenance districts are also excluded.

districts  
sented is  
considere  
subject to

Cou  
858, p.  
purpose  
services t  
law gene  
portions  
levy spec  
Gen. 17  
are consi  
the coun  
(1959).  
county. P  
formatior  
are merel  
jurisdicti  
not be su

The  
diction o  
exempts f  
provement  
act for th  
by, genera  
Cal. Atty.  
tenance di  
bodies of  
public im  
and High  
Cal. Atty.  
than speci  
would be  
not withi

Furth  
their own  
eated and  
38 Ops. C  
more than  
from the  
districts ar

They are also empowered to adopt proposals for the annexation and, 54780.

Provisions are set forth in sections 54760

have the following powers and duties: disapprove, with or without amendment, proposals for the annexation of county.

Procedures for the evaluation of proposals of local agencies within the county."

have the following powers and duties jurisdiction herein set forth:

disapprove with or without amendment, the following:

incorporation of cities.

formation of special districts.

Procedures for the evaluation of proposals of special districts."

Provides as follows:

agency of the State for the local proprietary functions within limited boundaries include the State, a city, a county, or does not include a special assessment district. Under the Improvement Act of 1911, the Municipal Improvement Act of 1903, the Vehicle Parking District Law of 1951, the similar assessment law, or similar proposed city. 'Special district' does not mean one formed for the sole purpose of levying a special tax or assessment for an

governmental agencies from the jurisdiction of such governmental agencies as not in that category are counties and special assessment

1, Division 2, Title 5, relating to local agency act as "... an agency of the State for the local functions within limited boundaries. 'Special district, county, or a school district.' We are not required to include in the definition of special district any action has with respect to the formation commission or section 54775, counties are excluded from jurisdiction likewise as hereinafter discussed, county service districts.

districts formed under the Improvement Act of 1911. The specific question presented is whether a county service area and/or a county maintenance district is considered a special district within the definition of section 54775 and therefore subject to the jurisdiction of formation commissions.

County service areas stem from the County Service Area Law, Stats. 1953, ch. 858, p. 2190, consisting of Government Code sections 25210.1-25210.90. The purpose of this legislation was to answer the problem of supplying governmental services to urbanize unincorporated areas. 22 Ops. Cal. Atty. Gen. 17 (1953). The law generally permits a county to establish one or more county service areas in portions of the county, to furnish particular public services to those areas and to levy special taxes therein to defray the costs of these services. 22 Ops. Cal. Atty. Gen. 17 (1953). They do not have a separate legal entity from the county and are considered nothing more than an administrative unit or instrumentality of the county. See 31 Ops. Cal. Atty. Gen. 73 (1958); 6 U.C.L.A. L. Rev. 205, 222 (1959). In other words, the actions of a county service area are the actions of the county. Pursuant to section 54775 counties are not within the provisions of the formation commission law. Thus, it would follow that since county service areas are merely administrative units of the county and the county is not subject to the jurisdiction of formation commissions that likewise county service areas would not be subject to such jurisdiction.

The remaining question is whether the formation commissions have jurisdiction over county maintenance districts. As previously stated section 54775 exempts from such jurisdiction special assessment districts formed under the Improvement Act of 1911. The Improvement Act of 1911 is a detailed comprehensive act for the accomplishment and financing of a variety of public improvements by, generally, counties and cities. See Streets and Highways Code § 5000; 38 Ops. Cal. Atty. Gen. 156 (1961). Pursuant to the provisions of this act, county maintenance districts are created by the boards of supervisors and also by the legislative bodies of cities for the purposes of levying an assessment for the maintenance of public improvements undertaken by the governmental body involved. See Streets and Highways Code §§ 5820-5856; 29 Ops. Cal. Atty. Gen. 192 (1941); 38 Ops. Cal. Atty. Gen. 156 (1961). Since county maintenance districts are nothing more than special assessment districts formed under the Improvement Act of 1911, they would be specifically exempt under the definition used in section 54775 and thus not within the purview of the formation commission law.

Furthermore, county maintenance districts have no governmental structure in their own right but are merely areas within the county boundary which are delineated and administered by the county for the collection of special assessments. 38 Ops. Cal. Atty. Gen. 156 (1961). Hence, the action of such districts is nothing more than acts of the county. As stated previously, counties are specifically exempt from the jurisdiction of formation commissions, consequently county maintenance districts are also exempt.