



**California Special
Districts Association**

Districts Stronger Together

DATE: August 8, 2016

TO: The Honorable Pedro Nava, Chair, Little Hoover Commission

FROM: Neil McCormick, Chief Executive Officer, CSDA
Kyle Packham, Advocacy and Public Affairs Director, CSDA

RE: Little Hoover Commission Review of Special Districts

Thank you for inviting the California Special Districts Association (CSDA) to participate in the Little Hoover Commission's (Commission) August 25 public hearing on special districts in California. We appreciate the opportunity to share our perspective on the recent trends related to special districts, as well as the emerging challenges faced by districts as they deliver essential services and infrastructure to millions of Californians.

Most importantly, we see this as another opportunity to promote understanding and awareness of local government and special districts in particular. Across our state, nation, and world, all levels of government face what seems to be growing levels of scrutiny. CSDA is striving to take a proactive approach to this issue, which this written testimony will speak to.

We look forward to actively participating in the Commission's review as an opportunity to build upon our efforts toward addressing political perceptions and meeting challenges related to special districts and the communities they serve.

About Special Districts

First, I'd be happy to give a quick overview of why special districts exist and what they do. Special districts are local governments, created by a community's residents, funded by those residents, and overseen by those residents to provide a new or enhanced level of service and infrastructure to the community. This may be a service that didn't exist previously, or it may have simply not met the full needs and desires of the community. Either way, special districts are formed when it's something the community wants; they want it done well; and they want it done with local control.

Focused Service

It's often asked, "What makes special districts so special?" The answer is the "specialized" services that special districts provide. Unlike general purpose governments, special districts focus on providing one service, or sometimes a small suite of services, to a community. It is this focused service that leads to efficiency and effectiveness. By focusing on doing one thing really well, special districts excel at innovation. It also allows them to plan ahead, think long-term, and practice sustainable decision-making.

In his prominent book, *Good to Great*, Jim Collins analyzes the difference between good businesses and great businesses. After an exhaustive study, Collins narrowed the difference down to what he referred to as the "Hedgehog Concept". According to Collins, a great business is one that finds one thing that people need, that the business is passionate about, and focuses



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on doing that one thing better than anyone else in the world. This is exactly what special districts do in the public sector.

Connecting governance, revenue authority, and service delivery is central to the success of special districts. One classic example of bureaucratic wrangling and inefficiency that faces larger bureaucracies is the governmental department that goes out of its way to spend every last dime remaining in the fourth quarter so that next year's budget isn't raided by the other departments.

With special districts, in a sense, the department is the agency. Therefore, service specialists are empowered to raise and expend revenues toward the services and infrastructure they deliver. If they can save a buck in the fourth quarter, that's a buck they can reserve and later expend on a valuable innovation or an important long-term capital improvement project—or it's one less dollar the district will need to raise in fees or taxes in the future.

History

In the 1880s, agriculture in the fertile Central Valley was limited to dry farms and low-value crops. Local farmers had a desire to tap into the water supply of the Tuolumne River, and the farmers themselves used their land as collateral to build diversion dams. Over time, it became clear that a collective, long-term solution was needed.

In 1887, the Legislature passed the Wright Act, named after the Modesto attorney who had been elected to office on a pro-irrigation platform. The Wright Act provided the legal foundation for the formation of water districts and, ultimately, other special districts that now deliver a wide range of services used daily by millions of Californians. The Turlock Irrigation District was formed the same year, making it the oldest special district in California.

The Legislature continued to develop new types of special districts as tools to help residents come together to solve community problems. Special districts became a popular mechanism for providing desired community services without the complex bureaucracies that often accompany larger general purpose governments.

For instance, in 1915, the Legislature created mosquito abatement districts because of widespread salt marsh mosquitos in the San Francisco Bay and high rates of malaria in rural counties. These districts continue to protect the public today from such mosquito borne diseases as West Nile and Zika. Because there weren't enough hospital beds after World War II the Legislature created hospital districts, so that communities could create and manage their own healthcare and wellness needs. Then in 1994, the Legislature evolved hospital districts into healthcare districts to meet the growing need for community-based health and wellness services and fill gaps in the healthcare delivery system.

Throughout California's history, special districts have empowered residents to find local solutions to fit the unique needs of their community. It is this local approach that continues to make special districts a popular method for delivering essential public services and infrastructure in communities throughout the state.



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Scale

When it comes to the number of special districts, CSDA always emphasizes that the primary attention should be upon quality over quantity. Ultimately, the residents who receive the services and fund the services should determine how those services are provided. So it is the quality of service the residents receive for the amount of fees and taxes they are willing to pay that is most important. More simply, it is less about the numbers and more about the residents' needs, the residents' desires, and the residents' satisfaction.

That being said, we have provided a list of the type and number of independent special districts below in response to the Commission's request. First, we have listed the number of cities, counties, and school districts for context.

While school districts are different than special districts, they are similar in that they provide one specific service to communities—education. Therefore, school districts offer an important framework of comparison, from a numerical standpoint, in order to understand the number of entities it takes to deliver focused service to communities throughout a state the size of California. Accordingly, rather than lumping all special districts together, we have broken them out by type of district. While imperfect, this is a more relevant numerical comparison than the combined total number of all different types of districts.

Exhibit A, attached to this letter, is a document entitled, *Laws Governing Special Districts*. This document includes the enabling acts and other information related to each type of district listed below and will give a better understanding of the roles and services each district type offers.

Number of Local Entities:

Counties: 58

Cities: 482

School Districts: 1,022

Airport Districts: 10

California Water Districts: 132

California Water Storage Districts: 8

Citrus Pest Districts: 9

Community Services Districts: 321

Cotton Pest Abatement Districts: 1

County Sanitation Districts: 37

County Water Districts: 169

Fire Protection Districts: 346

Harbor Districts: 7

Health Care Districts: 79

Irrigation Districts: 92

Levee Districts: 13

Library Districts: 13

Mosquito Abatement and Vector Control Districts: 47

Municipal Utility Districts: 5

Municipal Water Districts: 37



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Police Protection Districts: 3
Port Districts: 5
Public Cemetery Districts: 248
Public Utility Districts: 54
Reclamation Districts: 150
Recreation and Park Districts: 95
Resource Conservation Districts: 99
Sanitary Districts: 66
Transit Districts: 17
Water Conservation Districts: 13
Water Replenishment Districts: 2
Veterans Memorial Districts: 27

As with cities, towns, parishes, counties, and other jurisdictions, the definition of special district is not uniform from one state to the next. Nonetheless, the United States Census attempts to track the number of special districts across the nation. While the Census defines special districts slightly broader than does CSDA, their definition remains consistent across the 50 states, offering a relevant comparison.

Census data from the 2012 Census of Governments indicates that the number of special districts nationwide have grown by 209% since 1962, while the number of districts in California have only grown by 46%. Moreover, the number of special districts in California have declined by 5% since its peak in 1997, while the number nationwide continued to grow by 10% during that same period. Finally, special districts in California make up 7.5% of the nationwide total number of special districts, while the population of California makes up 12% of the nationwide total.

Density

According to the 2012 Census of Governments and 2010 Census Data, California has 13,021 residents for each special district. Ranked from most residents per special district (1) to least residents per special district (50), California ranks 17.

As a measure of “density”, the fewer residents per special district the higher the density of special districts in the state. By this measure, 33 states have a higher density of special districts per capita than does California. In other words, California is in the 34th percentile, or lowest one-third, in terms of density of special districts per capita among the 50 states.

Range

In terms of the range of special districts, they are as diverse in revenue, staff, and population as the communities they serve. California is not a one-size-fits-all kind of state, and the needs, hopes, and desires of our communities are wide-ranging. From Modoc to Marin, from Calaveras to Costa Mesa, and from San Francisco to San Bernardino, the climate, topography, socio-economics, and political settings are simply different. Therefore, it follows that these communities would choose different tools to meet their local service and infrastructure needs.



Geographical considerations around a state that includes beaches, deserts, valleys, and mountains have an obvious impact on service needs. However, so does population, economy, and political culture. To generalize, special districts in the more urban areas along California's coast tend to be larger in nature. They often seek to maximize economies of scale, overcome political boundary lines with regional solutions, and provide innovative solutions to big problems.

For example, Metropolitan Water District of Southern California is a regional water wholesaler that delivers water to 26 member public agencies—ultimately serving 19 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties. To supply the more than 300 cities and unincorporated areas in Southern California with reliable and safe water, Metropolitan owns and operates an extensive water system including: the Colorado River Aqueduct, 16 hydroelectric facilities, nine reservoirs, 819 miles of large-scale pipes and five water treatment plants. In fact, Metropolitan is the largest distributor of treated drinking water in the United States. It delivers an average of 1.5 billion gallons of water per day to a 5,200 square-mile service area.

On the other hand, special districts in the more rural areas of inland California tend to be leaner in nature. They often enhance local control so constituents don't need to drive hours to a distant county seat or navigate a larger bureaucracy. Districts in these areas tend to address the limited needs of an independent community that appreciates rural living; and they afford residents a mechanism to limit the amount of government they must pay for and be governed by.

For example, the Pine Cove Water District within the rural Idyllwild mountain community in Riverside County provides retail water service to 1,098 connections. It has no connection to State or imported water because its 18 wells produce between 32 and 43 million gallons annually. It is known for having reliable, as well as great tasting and excellent quality, water for its residents.

In summary, urban special districts more typically serve to centralize and regionalize governance of a particular service over a large population or area. Meanwhile, rural special districts more typically serve to localize governance and service delivery for small communities. Neither style of governance is incorrect, they are simply concentrated on the needs and desires of who they serve.

In some parts of the state, communities are transitioning, and it is in these parts where local leadership via a local process is essential to successfully transitioning services that continue to meet the needs and desires of residents. Some may suggest that the answer to these challenges is a top-down approach from the Capitol. However, imposing the views and interests of Sacramento upon local communities usually hurts more than helps. The most successful community transitions may involve support from the State, but they must involve buy-in from within, locally. This requires time, intentionality, and local leadership.

For example, the residents of Lompico County Water District, in the mountains north of Santa Cruz, voted 287 to 74 in May to impose upon themselves an assessment of \$48 per month for the next 10 years in order to fund improvements necessary to consolidate with the San Lorenzo Valley Water District. This was no easy feat. One year ago, a proposed 30-year bond failed by



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one vote. Ultimately, the three-year consolidation process garnered community buy-in because of local leadership, and Lompico board president Lois Henry was one of those local leaders. When local leaders are empowered to lead a community, true, effective, and sustainable transformation occurs. When change in local governance and local services is forced from the top down, it disempowers the local solutions communities need to succeed long-term.



May 5, 2016 Lompico Sentinel: Lois Henry, president of the Lompico County Water District board and a Lompico resident for 45 years, awaits the merger vote count with fellow board member Rob Hansel, left, and Rick Rogers, on staff of San Lorenzo Valley Water District (Jondi Gumz -- Santa Cruz Sentinel).

Professional Development

One of the major transformative efforts undertaken following the May 2000 Commission report was a coming together of special district leaders to professionalize the special district community. This effort has grown exponentially every year, with record numbers of attendees now going through CSDA's professional development programs. In 2015, we provided 63 workshops, webinars, and conferences representing over 4,239 attendees (elected and staff). By comparison, in 2002 CSDA offered 12 workshops representing 379 attendees (elected and staff).

CSDA Conferences, Workshops, and Webinars

A major component of CSDA's mission and activities focuses on professional development for elected officials and staff at special districts.

The foundation of our governance training efforts is set in curriculum developed by subject matter experts and key stakeholders from local government. CSDA's Special District Leadership Academy (SDLA) consists of 4 content modules covering core governance principles and responsibilities including Governance Foundations, Setting Direction/Community Leadership, Board's Role in Human Resources, and Board's Role in Finance & Fiscal Accountability totaling over 20 hours of education. In its first year, 2002, the SDLA saw 34 elected officials go through



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the program. Since then, it has consistently grown each year with over 180 elected officials expected to graduate through the program just in 2016. The SDLA curriculum is reviewed and updated annually to ensure it remains current.

With an emphasis on promoting the importance of continuing education in districts, CSDA continues to grow other program offerings and now offers a wide array of opportunities for district elected officials and staff to stay current on responsibilities, laws, and best practices through workshops, webinars, and conferences. Additionally, on-demand webinars have recently been added to allow for even greater access to content at lower costs for attendees.

A new and promising trend this year has been the development of partnerships between two LAFCOs, Mendocino and Calaveras, with CSDA to deliver free trainings to special district officials in their respective counties. These partnerships led to four trainings throughout Mendocino County, including, “Understanding Special District Laws”; “Government Best Practices”; “What is Public Engagement and Why Do It?”; and “Financing Options for Special Districts and Other Local Governments”. One training occurred in Calaveras County, entitled, “Boards Role in Finance and Fiscal Accountability”.

Special District Leadership Foundation

The Special District Leadership Foundation (SDLF) is a non-profit 501c3 formed in 1999 to promote and recognize excellence in the governance and management of special districts. Since the Little Hoover Commission’s 1999-2000 review of special districts, significant proactive strides have been made through the efforts of SDLF and others to promote the visibility and accountability of special districts. Exhibit B, attached to this letter, is an overview of some of SDLF’s work. More can be found at www.sdlf.org. There are currently four recognition programs offered by SDLF:

- Special District Administrator Certification – Currently 51 Certificate Holders
- Recognition in Special District Governance – Currently 219 Certificate Holders
- District Transparency Certificate of Excellence – Currently 118 Certificate Holders
- Districts of Distinction Accreditation – Currently 32 Accredited Districts

Each of these programs have specific requirements that must be met in order to earn the recognition with all of them focused on going above and beyond legal requirements through the implementation of best practices. Nearly all of the programs require periodic renewal in order to maintain the recognition.

In addition to the recognition programs, SDLF has also created a ‘High Performing District Checklist’ that serves as a best practices tool for districts to reference and is specific to the areas of finance and human resources. This is available to all special districts at no cost in print and online with numerous links to other resources to help them implement the best practices. Ultimately, the vision of SDLF is that every special district in California has well-trained, knowledgeable decision-makers and engages the public through a transparent process.

Another area of development for SDLF has been providing special districts with professional development opportunities that otherwise may not be attainable due to certain cost factors. SDLF has created three different annual scholarship categories that have allowed both elected



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officials and staff from small districts and disadvantaged communities to attend important educational events by covering their registration costs. The scholarships started in 2012 and this year SDLF expects to award over \$40,000 in scholarships.

CSDA Member Services

Since the May 2000 Commission report, CSDA has worked to continually build member access to tools and resources that will help districts better serve their communities. Through networking, collaboration, and pooled resources, special districts work together more efficiently and effectively. Some of these services include, but certainly are not limited to:

- Regular salary surveys.
- Legal assistance and policy guidance.
- Library of sample policies and other documents.
- Request for Proposal clearinghouse
- Regular informational updates through email, blogs, listserv, and website.

Accountability, Visibility, and Public Engagement

Streamline

More and more Californians have come to expect digital access to their local agencies. However, the transition to the digital sphere can be expensive. For this reason, CSDA partnered with Streamline, a division of Digital Deployment to offer its members a simple, affordable, and high quality solution. The Streamline website builder was developed in 2015 with special districts in mind. With no start up fees and no commitment, CSDA members can create and launch a website that will meet all legal requirements and SDLF transparency guidelines. Depending on the district's annual revenue, they may pay as little as \$10 per month for the service, which includes software maintenance and hosting. Additional information can be found at www.getstreamline.com.

CSDA Mapping Project

In 2012, CSDA embarked on an ambitious project to develop an interactive map to help raise awareness of the diversity of special districts. This geographic information system, developed in partnership with California CAD Solutions, contains location points and boundaries for the independent special districts in California.

CSDA invested a significant amount of time and resources gathering information and data from all over the state to develop this free resource. More notably, CSDA was able to overlay more than 90% of boundary lines for all independent special districts in the state. The map is available at www.csdanet.net.

CSDA Public Outreach Campaign

As part of its public outreach and awareness efforts, CSDA developed a public outreach campaign aimed at educating the public about special districts and the services they provide to communities throughout the state.

The *Districts Make the Difference* campaign launched in January 2016 using a website-based platform that features valuable information and resources regarding the structure, functionality, and purpose of special districts. Informational materials such as videos, posters, factsheets, and



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infographics have been developed and these are promoted through the use of various social media platforms, including Facebook, Twitter, and YouTube.

Access to this campaign, its accompanying materials, and social media pages is available by visiting www.DistrictsMakeTheDifference.org

ILG Public Engagement Program

The Institute of Local Government (ILG) is preparing to launch a major new public engagement tool for special districts, cities, and counties. ILG's Public Engagement Program has received generous support from The James Irvine Foundation to develop a new public engagement framework that will include example actions and implementation checklists which build upon ILG's existing public engagement resources (publications, tipsheets, webinars) to support local government officials and staff to implement specific public engagement policies and activities that result in systemic changes in resident engagement practices. The current effort will include 'beta-training' to test the new framework and support local governments in understanding how to implement the policies and practices outlined so challenges and barriers are avoided or overcome and successful implementation is more likely.

The overarching goal of the ILG Public Engagement Program is to imbed effective and inclusive public engagement practices that encourage data-driven and representative local decision-making. To achieve this, ILG will:

- Encourage more experimentation and use of public engagement and collaboration in local communities by elected officials, staff and residents; and
- Foster greater inclusion of those frequently under-represented in local public engagement (including impoverished, working poor, immigrants, and renters), through more responsive and targeted processes and cross-sector partnerships.

ILG Public Engagement Program objectives include:

- To develop the foundational components of a Public Engagement Actionable Framework for Local Governments, along with companion training curriculum for elected officials and local government staff to implement the framework; test the framework through two beta-trainings including communities in the Inland Empire and Central Valley with evaluative follow up to document impact; and develop communication, implementation, and sustainability plans.
- To develop a public engagement awards program, linked to ILG's Public Engagement Actionable Framework to honor outstanding efforts by local governments.
- To revise internal evaluation systems per recommendations of 2015 evaluation consultants in order to have more consistent data and improved documentation of impact.
- To continue to promote the importance of civic and public engagement from the local to legislative levels through promotion of ILG's Public Engagement Program resources and leadership in the California Consortium on Public Engagement.

ILG's mission is to promote good government at the local level with practical, impartial and easy-to-use resources for California communities. ILG's program areas include: public engagement, local government basics, ethics and transparency, sustainable communities, and collaboration and partnerships.



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CSDA is a proud partner of ILG and looks forward to supporting and promoting this important program. To learn more about ILG visit, ca-ilg.org

State Mandated Transparency Programs

In addition to the voluntary efforts on the part of special districts, significant mandates have been placed upon special districts by the California Legislature since the Commission's last review in 1999-2000. Generally, special districts meet similar standards as other local agencies; however, special districts must often exceed the standards for the state and some local agencies:

Public Financial Transaction and Compensation Reports

Since 1949, special districts have been required to submit a financial transaction report to the State Controller. However, in 2014, legislation was passed to additionally require completion of a compensation report, and to require that both the compensation and financial transaction reports be posted or linked to a conspicuous place on each special district's website. The Controller now provides all of this information in an open data format at www.bythenumbers.ca.gov and www.publicpay.ca.gov.

Ethics Training for Board Members

In 2005, the State enacted legislation mandating special district board members complete at least two hours of training in general ethics principles and ethics laws.

Posting of Board Agendas to Website

In 2012, the State enacted legislation mandating special districts post board agendas to their websites as part of the existing Brown Act open meeting requirements.

Elections

In 2015, CSDA successfully sponsored changes to Elections Code Section 10404 to empower special districts to move board elections to the same day as statewide general elections in even-numbered years, as well as provisions to allow for the consolidation of all mail ballot elections conducted by other agencies. Due to upfront costs and potential technological limitations, these opportunities to move elections to even years all require the consent of county elections officials.

High Risk Local Agency Audit Program

In 2015, regulations went into effect empowering the State Auditor to identify local government agencies that are at high risk for the potential of waste, fraud, abuse, or mismanagement, or that have major challenges associated with their economy, efficiency, or effectiveness. Thus far, the State Auditor identified six cities as potential high risk local government entities, determining that two of them, Hemet and Maywood warranted a full State audit.

The State Auditor solicited input from CSDA in developing its regulations and the process for the program. It is our understanding that the Auditor is currently reviewing special districts as part of its ongoing program.



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Regular Financial Audits

Although a requirement before the May 2000 Commission report, it is important to note that Government Code Section 26909 mandates regular audits of special districts by the county auditor or a certified public accountant. If the audit is performed by a certified public accountant, the audit must be filed with the State Controller and county auditor.

CSDA's Transparency Policy Principles

On September 5, 2014, CSDA's Board of Directors approved transparency policy principles. In summary, CSDA believes districts are made stronger through an engaged and informed public. It is the responsibility of every state and local agency, regardless what service they may provide.

Statewide policies seeking to promote transparent and accountable governance should do so through promoting the following values:

- Equal Application – Requirements are applied equitably to all levels and types of local and state government, with modifications only to reflect pertinent differences in specific governance structures.
- Uniformity – Information is presented in ways that facilitate comparisons between different government agencies and levels.
- Efficiency – Government agencies should be able to carry out transparency efforts with minimal cost impacts to residents, property owners, or taxpayers that could diminish core service delivery. In addition, policies should not seek to create redundant or duplicative transparency efforts.
- Accuracy – Information is correct, timely and does not advance misconceptions. Every reporting agency can clearly understand the information requests and process for reporting.
- Clarity – Data is shared in meaningful ways that promote greater awareness and understanding of governance structures, policies, and/or finances.

Efficient and Effective Formation, Reorganization, and Dissolution

As the Lompico County Water District example attests, special district consolidations can and do occur successfully with local leadership. CSDA opposes top-down, one-size-fits-all approaches to local government reorganization. However, we are not opposed to consolidation in general. Perhaps one of the most progressive steps California ever took related to local government was the invention of the Local Agency Formation Commission (LAFCO) system.

CSDA supports a local LAFCO process that meets the following criteria:

- Facilitates an open and public local process.
- Includes the input and participation of all affected parties.
- Conducts an objective analysis.
- Gives the residents who receive and pay for the services the final say.

CKH of 2000

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 established significant new LAFCO provisions that directly respond to many of the Commissions 1999-2000 review. Presumably the California Association of Local Agency Formation Commissions will speak to these updates in its written testimony. However, to say the least, the imposition of municipal service reviews (MSRs) and the authority for LAFCOs to self-initiate dissolution and



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reorganization actions represent major new powers to shape more efficient and effective local governance. Moreover, since 2000, most LAFCOs have moved in a far more independent direction in terms of their structure and culture.

Special District Representation on LAFCO

Special districts now have representation on 30 of the 58 LAFCOs, with Santa Clara County representing the most recent addition.

Given the decisions LAFCOs make regarding dissolutions, reorganizations, boundaries and spheres of influence, as well as the increasingly significant MSRs and other reports they produce, obtaining representation on LAFCO is a valuable and worthwhile endeavor for special districts. Furthermore, as a key stakeholder in the delivery of core local services, along with cities and counties, special districts bring a meaningful perspective to the LAFCO process that diversifies decision-making.

Growing the number of LAFCOs with special district representation is something CSDA supports and is actively encouraging. It will improve the balance and diversity of LAFCOs, promote a more inclusive and engaged local government culture, and support and diversify LAFCOs' revenue base.

Reserves

For countless families, saving for a rainy day is common-sense. For special districts, reserve funds are not just money in a bank; they are fundamental resources for ensuring reliable, essential services and community security.

Special district reserves have helped many districts to weather the 2008 financial crisis and the "Great Recession" that followed, which was characterized by a collapse in the housing market resulting in lower property tax revenues for local governments. Those local, state, and federal governments with insufficient reserves resorted to major service cuts, layoffs, furloughs, and/or tax increases during this difficult period, some even filed for bankruptcy.

Special districts designate money toward savings in order to balance their budget, respond to emergencies, keep rates affordable, maintain current infrastructure, and plan for future public works projects that meet community needs and expectations:

- **Balancing Budgets** – Over the course of the fiscal year, short-term reserves help balance the ebb and flow of revenues verse expenditures.
- **Emergency Preparation** – In the event of a disaster, communities can't afford not to have savings readily available to quickly repair critical local infrastructure and bring core services back online. For some districts, one natural disaster can easily cost millions of dollars in repair costs.
- **Affordable Rates** - With appropriate savings, special districts are able to use resources wisely and smooth out the highs and the lows of volatile economic conditions, rather than spend their entire surplus and then seek new revenue or jeopardize services.
- **Infrastructure Maintenance** – Reserves mean the pipes are fixed, roofs are patched, and worn equipment is replaced without going back to the taxpayers or ratepayers to pay for routine upkeep.



- Planning for the Future – A long-term, thoughtful approach to public infrastructure requires the foresight to plan for, and discipline to save for, future needs.

Special district reserves are also a key factor in credit rating agency determinations of district credit worthiness and the ratings of special district bonds. Higher credit ratings lead to lower bond interest rates which ultimately save taxpayer money:

- <http://fitchratings.com/site/dam/pdf/usp/Key-Rating-Factors>
- This water district quotes Fitch ratings as stating that their “sound formal reserve policies and covenants ensure healthy liquidity levels” (<http://www.emwd.org/home/showdocument?id=70> page viii)

There are many factors to maintaining sufficient reserve levels and ultimately the fact that one agency has larger or smaller reserves than another agency is not, in and of itself, a bad thing. The key is for agencies to establish a clear and well-articulated rationale for the accumulation and management of reserve funds. It is critical to understand that a reserve fund is designated by a public board to carry out specific purposes in a manner consistent with other financial policies, budgetary practices, district programs, and legal requirements.

Only a case-by-case analysis can truly evaluate any given reserve level, and one must take into account the unique circumstances of each district. For example, an infrastructure heavy district with low annual personnel costs will require a much higher reserve, based on percentage of annual budget, than would a personnel intensive entity, like a school district. Legal considerations are also worth noting, such as the fact that public cemetery districts are required by law to maintain an endowment fund capable of funding the maintenance of existing interments in perpetuity.

In response to the Commission’s 2000 report, CSDA formed a task force comprised of special district managers and independent finance industry experts to identify both the essential elements of a reserve policy and the issues to be discussed during policy development. The *Special District Reserve Guidelines* were produced by the task force as a tool for special district governing officials and administrators to assist them in fulfilling their commitment to provide cost-effective and efficient public services for the communities they serve. CSDA commissioned a second task force in 2012 to produce a *Special District Reserve Guidelines, Second Edition*. This document is attached as Exhibit C to this written testimony.

Property Taxes

Special districts are established by local voters and all special district taxes and assessments are approved by voters. Statewide, voters have expressed consistent and overwhelming resolve to keep their property tax dollars local in support of the core services their special districts provide.

Property taxes establish a firm financial foundation for special districts to build the infrastructure necessary to maintain a strong economy and healthy environment. “Non-enterprise” services like fire protection, parks and recreation, mosquito abatement, public cemeteries, resource conservation, and others rely primarily on property taxes. However, “enterprise” service delivery also gains invaluable benefits from property tax support.



Many “enterprise” districts rely on property taxes in order to:

- Secure and repay the most cost-effective bonds for infrastructure projects.
- Perform environmental conservation that offers a broad public benefit.
- Deliver certain non-enterprise functions as part of comprehensive service efforts.
- Offer stable, long-term rate plans, as well as rate relief when appropriate for disadvantaged residents.

One of the most notable recent examples of the indispensable nature of property taxes for special districts delivering enterprise services comes from the drought plaguing California for the last four years. In 2015, the State Water Board began imposing mandatory conservation of up to 36% of water used by special district customers. Because a majority of water district operational costs are fixed and not dependent on water usage, this resulted in a drastic cut in monthly revenue collected from water users.

If not for property tax revenue—along with prudent reserve funds—many of our state’s water providers likely would not have weathered this drought. And, while the State Water Board’s mandatory restrictions have ended, the drought continues. We should not allow this moment to pass without extracting the lesson as to the value of diversification and stability that property tax revenue offers to the enterprise district portfolio.

Should the example of the ongoing statewide drought not persuade, let us consider some of the adverse effects of shifting local revenues:

- When property taxes are diverted away from special districts, taxpayers pay more and receive less because residents must either pay new taxes and fees or lose essential services.
- The Educational Revenue Augmentation Fund (ERAF), first imposed in the 1990s, shifts over \$500 million a year in 1% ad valorem property taxes away from special districts. Former redevelopment agencies (RDAs) still divert nearly \$500 million more per year away from special districts to fund payments to remaining enforceable obligations. These shifts impose continued hardships on special districts and their constituents, forcing increases in other tax assessments, deferred infrastructure projects, and reduced services.
- Higher rates on water, sanitation and other “enterprise” services impose a painful burden on working families, which is more regressive than a balanced revenue portfolio that includes a sufficient property tax base.
- In the wake of the growing housing crisis, special districts face rising operational costs as they strive to provide the infrastructure and service levels that families and businesses depend on for quality of life and job creation.

Because the broad benefits from special district projects accrue directly to property taxpayers, an ad valorem property tax is a fair and equitable means for those who benefit to share in the cost of district services and infrastructure. A clear nexus of benefit historically exists between



the taxpayer and the property value improvement generated from property tax investments in water, wastewater, and other essential services and infrastructure provided by special districts.

Evolving Roles and Practices

Special districts, together with CSDA and its sister organizations are continually evaluating and evolving their roles and practices to better serve California's communities. Three examples of concerted efforts currently underway include resource conservation districts, healthcare districts, and veterans memorial districts.

Resource Conservation Districts

Resource conservation districts mobilize communities to take on pressing environmental challenges, including drought, climate change, and tree mortality. Led by the California Association of Resource Conservation Districts, these special districts have raised over \$1 million in private funding to sponsor a transformative capacity building process. Designed to empower resource conservation districts to meet today's threats and exceed the public's expectations, a few of the objectives within this plan are noted below:

- Standards and guidelines that clearly outline the legal requirements of the State, industry best practices, and goals to aspire to.
- Voluntary accreditation system through the Department of Conservation that recognizes districts that comply with standards and guidelines and reach benchmarks of success (expected implementation by end of 2016).
- Individualized in-depth assistance for 10 resource conservation districts by an organizational development professional.

Healthcare Districts

Healthcare districts promote healthy communities through preventative programs, senior care, efforts to improve fitness and combat obesity, as well as traditional medical services like hospitals and clinics. Organized through the Association of California Healthcare Districts, these special districts have embarked on a formal process, with action-oriented outcomes to develop a set of best practices and a package of reforms to better meet the health, governance, and transparency needs of 21st century communities. A professionally-facilitated working group has already convened and will have met four times by the end of August.

Veterans Memorial Districts

Dedicated to the memory of all who proudly served and protected their country, veterans memorial districts honor the nearly two million veterans residing in California with permanent living memorials, including facilities the whole community benefits from. Initiated by CSDA, these special districts will be modernizing their principal act next year. CSDA is already coordinating with appropriate legislative committees and stakeholders. The goal will be to both update the act, first established in 1935, and to consider opportunities for improved service delivery to better meet the needs of a new generation of veterans.



Potential Opportunities

As outlined in this written testimony, much progress has been made over the last 16 years to improve and evolve special districts in California. However, CSDA is growing its efforts to ensure special districts are valued by their communities as efficient and effective service providers. Special districts are a resource for the future.

CSDA considers the following concepts as potential opportunities to help special districts best serve their communities. While these concepts have not been fully vetted or endorsed by CSDA, we recognize the merit in further review. Therefore, as the Little Hoover Commission narrows its review of special districts in advance of its next hearing in October, we encourage consideration of these opportunities, which we would be eager to collaborate upon in order to weigh their value and viability.

Revenue Opportunities

The most challenging aspect of local governance today is securing sufficient revenue. For all of the problems and struggles, the thing that would help most is the one thing that is hardest to come by, and that's money. The bottom line is that healthcare, workers' comp, construction, wages, and state regulations are all getting more expensive and taxes and fees are getting more difficult to approve. Proposition 13 of 1978, Proposition 218 of 1996, and Proposition 26 of 2010 all reduced the tax and fee authority of local boards.

- **Special Tax Vote Thresholds**
 - It seems illogical that the vote threshold for local government general taxes, that can be spent on anything, require a 50% vote, while special taxes, where the voter knows where the money will be spent, require a two-thirds vote.
- **Local Government General Obligation Bond Vote Thresholds**
 - It seems equally illogical that school bonds require a 55% vote threshold, while local government bonds require a two-thirds vote threshold.
- **Unfunded State Mandates**
 - The California State Mandates Commission has recently ruled, and argued in the case of *Paradise Irrigation District v. Commission on State Mandates* that mandates do not merit reimbursement by the State if the local agency has fee authority. This appears to fly in the face of Proposition 1A of 2004 and is now being appealed to the Appellate Court. All of this is occurring as the State imposes costly new burdens on local governments every year, crowding out resources available to meet the needs of their communities.
- **State Responsibility Area (SRA) Fire Fee**
 - As discussed in the attached Sacramento Bee articles, Exhibit D, the SRA fee has had a chilling effect on the passage of local fire fees and taxes to support local fire protection efforts. The state policy of the SRA was to provide support to areas that had insufficient fire services. However, the consequence is that it is actually stifling, and eventually bankrupting, whatever local services these areas do have.



Recommendation 3 from the May 2000 Little Hoover Commission Report

The May 2000 Little Hoover Commission Report was broad and far-reaching. Of the dozens of findings and recommendations within the report, Recommendation 3 contained a framework of concepts that could facilitate thoughtful and meaningful progress in local governance.

As Finding 3 stated, “Research is needed that will help policy-makers and community leaders know when consolidations will achieve improved efficiency and service and identify strategies for facilitating those consolidations. Policy-makers also need guidelines, best practices and access to a cadre of experts who can provide technical assistance and training.”

Recommendation 3 offered four sub-recommendations. While we think they need to be further shaped, particularly in light of changes that have occurred over the last 16 years, the concepts have merit in terms of the following potential opportunities:

- Study long-term outcomes of consolidation and reorganization.
- Enhance and expand the cadre of trainers for LAFCOs.
- Develop and encourage special districts to establish performance measures, which could be incorporated into appropriate LAFCO guidelines and/or best practices.

This 2000 Commission recommendation suggested the California Policy Research Center as a resource in coordinating and conducting these efforts. While CSDA does not have direct experience with that entity, nor an opinion as to its appropriateness at this time, we would encourage consideration of CALAFCO, ILG and SDLF, along with CSDA, in coordinating, collaborating upon and/or conducting these type of efforts.

Special District Representation on LAFCOs

As noted above, CSDA supports and encourages special district representation on LAFCOs. One potential opportunity to facilitate the successful local adoption of district representation on the remaining 28 LAFCOs would be to remove the bureaucratic red-tape associated with the current process.

Under current law, independent special district selection committees are able to appoint LAFCO representatives through a mail ballot or in person election. All actions taken are valid by majority vote, so long as a quorum participates. Applying these same standards to the process for adopting special district representation could maintain local control, while streamlining the process.

State Grant Funding for LAFCO Studies

Given the State’s keen interest in promoting improved local governance, and the amount of attention given to the issue over the years, the State may wish to support the important work of LAFCOs through a small investment in grant funding. A minor allocation of \$1-3 million could fund dozens of the most critically needed MSR or reorganization studies by LAFCOs.

Proper MSRs, and particularly reorganization studies, require professional analyses. Changing governance and essential service providers is a complicated and high stakes process that imposes long-lasting effects on communities. These decisions require a thoughtful, deliberate, and well-examined process, and a thorough study is fundamental.



A potential opportunity would be to set up a grant program through the Governor's Office of Planning and Research. The program could outline parameters such that it would fund the most critical studies first—the "lowest hanging fruit". It could also set funding eligibility guidelines in order to incentive professionalism and best practices by LAFCOs.

Secretary of State Roster of Public Agencies

Current law requires the governing body of each public agency to file with the Secretary of State (SOS), on a form prescribed by the SOS, and also with the county clerk of each county in which the public agency maintains an office, a statement of facts containing the following information:

- The public agency's full, legal name.
- Its official mailing address.
- The name and residence or business address of each member of the governing body of the public agency.
- The name, title, and residence or business address of the chairman, president, or other presiding officer, and clerk or secretary of the governing body of such public agency.

Furthermore, should any of those facts change, public agencies are required by law to notify the Secretary of State and the local county clerk of those changes using the same form prescribed by the Secretary of State within 10 days of said change (Govt. Code Section 53051).

In reviewing the SOS roster of public agencies, the existing process does not appear to be working well, leaving a deficiency of statewide data related to local agencies. A potential opportunity would be to update the law with an improved process that ensures this actually occurs. Doing so would ensure the State Controller, LAFCOs, policymakers, and the public have a comprehensive and accurate accounting of special districts and other local agencies in California.

It would be pertinent to involve the State Controller, CALAFCO, County Elections officials, the League of California Cities, CSDA, and of course the SOS in any such conversations on this matter to ensure an efficient and effective system is redesigned. It also may be possible to streamline the reporting or consolidate it with other existing reporting mechanisms.

Modernization of Principal Acts

Efforts by the former Senate Local Government Committee recast laws pertaining to fire protection districts (1987), recreation and park districts (2001), mosquito and vector control districts (2002), public cemetery districts (2003), and community services districts (2005). In 2017, CSDA hopes to continue this effort with veterans memorial districts. A potential opportunity would be to continue this effort with remaining special district principal acts in the coming years.

Representation on COGs

Some of the concerns within the May 2000 Commission report dealt with the coordination of regional infrastructure. One potential opportunity for addressing this concern would be to provide special districts the opportunity to participate on Councils of Government (COGs). Currently, very few COGs offer representation to special districts.



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“Red Teams”

A potential opportunity would be to develop a roster of experienced professionals who could respond to critical situations and help small districts in disadvantaged communities correct course or build a stronger foundation. This roster, or what some have referenced as “red teams” may include retired general managers or other officials willing to offer low cost or pro bono services to communities in need.

Regional Board Member Trainings

CSDA is considering expanding its board training program to include more regional trainings. Additional scholarship support to promote attendance of these trainings could yield significant results.

Management Succession Planning

A “silver tsunami” is approaching all levels of government, and CSDA is looking for opportunities to prepare for the next generation of local leaders. CSDA has initiated a coaching program, partnered with CallCMA’s “Preparing the Next Generation”, and formed “So You Want to be a GM?” workshops. Still, we are eager to do more.



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LAWS GOVERNING SPECIAL DISTRICTS

CALIFORNIA SPECIAL DISTRICTS ASSOCIATION
Last updated: December 23, 2015



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INTRODUCTION

Laws Governing Special Districts, created by the California Special Districts Association, is a reference guide to independent special districts. It is intended to serve as a resource for special district board members, staff, and the general public regarding the governance powers and functions that distinguish each type of special district and the way they deliver essential services.

The first portion of the guide, General Laws Governing Special Districts, is meant to help navigate the overarching statutes and constitutional provisions affecting independent special districts. This section includes summaries of significant laws such as the California Environmental Quality Act, Proposition 13, Proposition 218 and the Ralph M. Brown Act, among others. These laws play an integral role in how special districts serve their constituents, and it is important to know where these laws live and how they impact local governance.

Next, this guide outlines the statutes providing authorization for the formation and operation of the 2,109 independent special districts, created by voters or established by the California Legislature. It is important to note not every district provides all the powers and functions authorized by its enabling act. Those powers and functions that a district does not provide, but which are authorized by its enabling act, are called latent powers. Special districts must get approval from their Local Agency Formation Commission (LAFCo) before providing a latent power.

The number of special districts in California is often misquoted due to the number of entities included in the State Controller's annual financial transactions report. While the Controller's 2011-2012 report lists 4,711 "special districts," many are actually non-profit corporations or components of other governments, such as cities and counties.

"Independent special district," as defined by Government Code §56044, "...includes any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms." In addition to the principal acts of all independent special districts, this guide lists the special acts that provide statutory authorization for 141 dependent and independent districts created for specific purposes separate from the standard special district principal acts. These districts were initiated by legislation, as opposed to a vote of the people, and are created when there is a specific need in a locale that cannot be met by the traditional formation of a special district.

Ultimately, it is not the number of special districts that is paramount, but the ability to deliver core local services effectively and responsibly. The variety of special district types and unique attributes of each individual district facilitate focused service, which is the strength of special districts and what makes them "special."

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GENERAL LAWS GOVERNING SPECIAL DISTRICTS

This portion of *Laws Governing Special Districts* is intended to be a reference in navigating the laws and statutes that affect local government and special district governance. Each subject area includes a short description with the issues and its associated statutes or constitutional provisions tagged underneath, followed by a short summary.

FORMATION AND REORGANIZATION

There are three primary sources of authority for forming and reorganizing special districts. The first is the special district's enabling act. Most types of special districts have a series of statutes specific to that type of special district. These statutes often contain the procedures for creating that type of special district. The second is the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, which governs the establishment and reorganizations of local governments. Finally, there is the District Organization Law, which provides standardized special district organization and governance procedures for certain types of special districts.

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

Government Code §56000, et seq.

Government Code §56821, et seq. (procedure for special district change of organization or reorganization)

This law establishes certain procedures for local government changes of organization. This law also established local agency formation commissions (LAFCo) with numerous powers, including the ability to act on local agency boundary changes and the adoption of spheres of influence for local agencies. The statutory mission of LAFCos is to discourage urban sprawl and encourage the orderly formation and development of local agencies.

District Organization Law

Government Code §58000, et seq.

The District Organization Law establishes procedures for the organization, operation, and governance of certain types of special districts. This law applies only to districts with enabling acts that refer to the District Organization Law in lieu of procedures within their enabling act. The District Organization Law generally provides for a petition for formation of a district, a primary hearing, a final hearing, a procedure for formation, and validating proceedings.



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GOVERNANCE

Special districts not only serve their communities, they are accountable to them. Various election procedures ensure that communities maintain ultimate control of the districts they create and the decisions that are made. Transparency and accountability help to ensure the electorate is well informed regarding how each special district is performing the people's business. The following sections contain laws governing elections, and laws that ensure special districts remain transparent and accountable.

Elections

The most important way the community can oversee and direct their special districts is through elections. The following are some of the laws that govern when an election can or should be conducted and how those elections are to be conducted.

Advisory Elections

Elections Code §9603

Local government agencies are permitted to hold advisory elections in order to allow all or a portion of voters within the jurisdiction to "voice their opinions on substantive issues, or to indicate to the local legislative body approval or disapproval of [a] ballot proposal." Under certain conditions, a local government agency may sponsor an advisory election outside its jurisdiction if the residents of the territory would be affected by a ballot proposal.

Consolidations of Election

Elections Code §10400, et seq.

Local government agencies, including special districts, may consolidate their elections with statewide elections. Special districts wishing to consolidate their elections must abide by certain statutory requirements and procedures.

Initiative Procedure

Elections Code §9300, et seq.

Any proposed ordinance may be submitted to the governing board of the district by an initiative petition filed with the district elections official. Before circulating an initiative petition, the proponents of that measure must publish a notice of intention. After the publication of intention, the petition may be circulated among the voters of the district for signatures by any person who is a voter or who is qualified to vote in the district. Each section of the petition should have an attached affidavit of the person soliciting the signatures. If the required number of signatures have been gathered, the governing board must either adopt the ordinance without alteration or submit the ordinance for an election. Once the ordinance is adopted, either by the governing board or by the electorate, the ordinance can only be repealed by election, unless the ordinance contains provisions to the contrary.

Mailed Ballot Elections

Elections Code §4000, et seq.

Elections may be conducted entirely by mail if certain conditions are met. The governing body of the local government agency must authorize the use of mailed ballots for the election, the election must be held on an established mailed ballot election date, and the election must be of a qualifying type.



Uniform District Election Law

Elections Code §10500, et seq.

The Uniform District Election Law (UDEL) is the general election law for many special district types. While some special district types may have their own unique election procedures within their enabling act, many enabling acts simply refer and incorporate the election procedures in the UDEL. If a principal act provides that the UDEL shall apply, the UDEL will control where it otherwise conflicts with the principal act. The UDEL does not apply to the election of officers upon formation of a district.

Referendum Procedure

Elections Code §9340, et seq.

The voters of a special district may have the right to petition for referendum on legislative acts of the district. This code section refers to the rules set forth for counties in Elections Code §9141-9147, which is applicable to counties and instructs that computations referred to in those sections for officers of the county shall be construed to refer to comparable computations and officers of the district.

Vacancies

Government Code §1770, et seq.

Some special districts have procedures for filling board vacancies contained within the district's enabling act. If not, Government Code §1770, et seq. provides the procedure for filling board vacancies. Section 1770 contains a long list of the conditions that will cause an elected seat to be considered "vacant." Among these conditions is the death of the officeholder, his or her resignation, removal from office, his or her refusal or neglect to file his or her required oath or bond, and the failure to discharge the duties of his or her office except when prevented by sickness or when absent from the state with permission required by law. For most special districts, the specific section providing the procedure for filling vacancies is found at Section 1780. Generally, the procedure requires the district to inform the county elections officials of the vacancy, and the remaining board members may either make an appointment or call an election to fill the vacancy. If the vacancy has not otherwise been filled, the county board of supervisors or city council (depending on the location of the district) can either appoint someone or order the district to call an election to fill the vacancy. This section contains deadlines for the above procedure and other provisions related to how to determine a quorum of the remaining board and the length of the term the board member appointed or elected to fill the vacancy will serve.



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Transparency and Accountability

An important characteristic of local government in California is transparency and accountability to the public. These goals are enshrined within the California Constitution and are achieved through various state laws. Among the most familiar of these statutes are the California Public Records Act and the Ralph M. Brown Act, both of which seek to ensure the public's business is conducted in the sunshine of public scrutiny.

Audits

Government Code §26909

Special districts are required to have annual, independent audits conducted by the county auditor or a certified public accountant. This information is filed with the State Controller's Office. The annual audit can be changed to a biennial audit if approved unanimously by the district board and the board of supervisors, under certain restrictions.

California Public Records Act

Government Code §6250, et seq.

The purpose of the California Public Records Act (CPRA) is to enable the public to have access to information needed to monitor the functioning of government. The public has a right to inspect public records during the office hours of any government agency and to request and obtain copies of records subject to the payment of fees covering the direct costs of duplication or a statutory fee if applicable. The CPRA contains a number of exemptions for certain classes of documents. These exemptions generally cover documents that are privileged or confidential, or which would infringe on the individual right to privacy. Examples of some common exemptions include documents protected by attorney client privilege, attorney work products, preliminary draft documents not retained by the agency in the ordinary course of business, and personnel records for which the disclosure would constitute an unwarranted invasion of privacy.

Ethics Training

Government Code §53234, et seq.

Government Code §53232.1-5323.2 (authorization of compensation for training)

Local elected officials and key officials designated by the local board (typically management staff) are required to take ethics training courses if the officials receive compensation or reimbursement in their position with a local government agency. This applies even if the official does not actually receive compensation or reimbursement, but if the district's enabling act simply allows for such compensation or reimbursement. By law, the affected local official must take an ethics training course once every two years, and the district has to establish a written policy on reimbursements.

High-Risk Local Government Agency Audit Program

Government Code §8546.10

This law authorizes the State Auditor to establish a high-risk local government agency audit program to identify, audit, and issue reports on any local government entity the State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement, or that has major challenges associated with its economy, efficiency, or effectiveness.



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Incompatibility of Office Doctrine

Government Code §1125, et seq.

Local officials cannot engage in any employment or activity that is in conflict with their duties as local agency officers or with the duties or responsibilities of the agency by which they are employed. An employee's outside employment may be prohibited if it involves:

- The use of the agency's resources for private advantage, or
- Receiving money or other considerations from anyone other than their local agency for the work they are expected to complete as part of their duties as a local agency employee, or
- The performance of work for compensation in a non-agency capacity where such work will be subject to approval of the agency, or
- Time demands that would interfere with the performance of their duties or make them a less efficient employee.

Municipal Service Reviews

Government Code §56430

LAFcos are required to update local agency spheres of influence every five years. As a prerequisite for a sphere of influence update, the LAFco must conduct a municipal service review (MSR). An MSR evaluates the services currently provided by local agencies and their potential future growth. Among other things, the MSR must address the jurisdiction's population growth and projections, the adequacy of services and infrastructure of the agency, the financial ability of the agency, and the status of and opportunities for shared facilities.

Political Reform Act of 1974

Government Code §81000, et seq.

The Political Reform Act (PRA) was passed by voters via Proposition 9 in 1974. It is designed to ensure elections are fair and that state and local government officials perform their duties impartially and serve all citizens equally. The PRA generally governs political campaign spending and contributions. A variety of ethics rules for state and local government officials are also contained in the PRA. For example, the PRA prohibits an official from the ability to participate in a decision or "use his or her official position to influence" a decision in which the official "knows or has reason to know that he or she has a financial interest." The PRA also created the Fair Political Practices Commission, which is charged with administering the PRA and investigating and prosecuting PRA violations. A knowing or willful violation of the PRA is a misdemeanor and certain violations could result in a fine up to \$10,000 or three times the amount "the person failed to report properly or unlawfully contributed, expended, gave, or received."

Ralph M. Brown Act

Government Code §54950, et seq.

The Ralph M. Brown Act (Brown Act) is designed to ensure government actions and deliberations are conducted openly so that the people "may retain control over the instruments they have created." The Brown Act accomplishes this by requiring meetings of local government bodies be conducted during noticed public meetings. Violations of the Brown Act can lead to invalidation of local agency actions, payment of a challenger's attorney's fees and, in some cases, criminal prosecution. The primary requirement of the Brown Act is that meetings of a local government agency's legislative body be open to the public, allow for public comment and be publicly noticed 72 hours in advance of the meeting. The Brown Act contains procedures for conducting special meetings, emergency meetings, and closed sessions. The Brown Act also limits the ability for a quorum of a legislative body to discuss certain matters outside a noticed public meeting.



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PUBLIC WORKS

Public contracting law covers a wide range of projects, improvements, and maintenance a special district may engage in. Different laws and requirements may apply for different types of projects or expenditures. For example, all public works projects over \$1,000 will require payment of prevailing wage but not all projects will require formal bidding procedures be followed.

California Environmental Quality Act (CEQA)

Public Resources Code §21000, et seq.

Code of Regulations §15000, et seq.

CEQA is designed to require public agencies to consider environmental protection whenever making a decision regarding proposed projects and activities, and to allow for public participation in that process. If a project is not exempt from CEQA and is determined to have the potential to have a significant environmental impact, the lead agency is required to conduct an initial study of the project. The lead agency will then determine whether to conduct an environmental impact report or a negative declaration. While the scope and process of those documents is somewhat different, both require a period for public comment. CEQA Guidelines are produced by the California Resources Agency and codified in the California Code of Regulations Title 14 §15000, which provides procedures and factors lead agencies should consider when conducting CEQA reviews.

Contracting and Bidding

Public Contract Code §1100-9203 (generally applicable)

Public Contract Code §20100, et seq. (special district-specific)

The Public Contract Code generally requires public agencies, local governments, and special districts to award contracts to “the lowest responsible bidder.” These statutes often contain provisions relating to how bidding for the contract should be advertised, how bidding should be conducted, and in what circumstances the lowest bid can be rejected. The purpose of bidding requirements is to ensure all qualified bidders have “a fair opportunity to enter the bidding process” and to “eliminate favoritism, fraud, and corruption in the awarding of public contracts.” Because there are specific bidding statutes applicable to different types of special districts, the projects that must be bid will vary by district type. This variation includes the total project cost and the types of projects that will trigger bidding procedures. Bidding is generally only required when a special district is contracting for construction services or the supply of materials. Contracts for personal services, including architectural, land surveying, and construction project management are not subject to “lowest responsible bidder” requirements. Bidding requirements are generally contained within a district’s enabling act. A small number of special district types are not subject to any bidding requirements because there is no statute imposing them on the district. These districts are free to determine their own contracting procedures through board policy.

Eminent Domain

Code of Civil Procedure §1230.010, et seq.

District-specific authority varies by principal act

Eminent domain is a power some local government agencies have to take private property for “public use,” provided that the owner is paid just compensation. The statute provides a detailed process for obtaining property by eminent domain. Only local agencies with specific statutory authority may exercise the power of eminent domain



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Excess Property (special districts)

Government Code §50568, et seq. and §54220, et seq.

Each local government agency is required to inventory all property it holds or controls to determine if there is any in excess of the agency's foreseeable needs. A list of excess properties must be made available to the public without charge. The local agency may sell or lease the excess property to certain entities for the purpose of developing affordable housing. The deed must specify that title will revert to the local government agency upon certain conditions. If excess property is not sold for affordable housing purposes, it must be offered for park or open-space purposes, school facilities, enterprise zone purposes, or for developing property located within an infill opportunity zone or transit village plan.

Prevailing Wage

Labor Code §1720, et seq.

Prevailing wage must be paid for all "public works," which are defined broadly to include any "[c]onstruction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part of public funds..." over \$1,000. "Public works" is more fully defined in the Labor Code and contains a number of exceptions. SB 854, passed in 2014, made a number of changes to the prevailing wage law. Most important for awarding entities is the requirement that contractors register with the Department of Industrial Relations (DIR) in order to be eligible to be awarded a public works contract. Awarding entities must notify contractors of the registration requirement in bidding documents. The DIR was tasked with developing a web-based database so that awarding entities can easily determine the registration status of a contractor.

Uniform Public Construction Accounting Act

Public Contract Code §22000

In an effort to promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by local agencies, the Legislature established the Uniform Public Construction Accounting Act (UPCAA) as an alternative method for the bidding of public works projects by public entities. Public agencies can take advantage of increased bidding thresholds and other benefits provided by the UPCA if it elects to follow the cost accounting procedures contained in the *Cost Accounting Policies and Procedures Manual* of the California Uniform Construction Cost Accounting Commission. The procedures generally are used to estimate project costs to determine whether bidding is required and to record actual project costs when the project is performed by the agency's own workforce. The *Cost Accounting Policies and Procedures Manual* includes sample forms. The alternative bidding thresholds are:

- Public Projects \$45,000 or less – negotiated contract or by purchase order.
- Public Projects \$45,001-\$175,000 – informal bidding procedures set forth in UPCA.
- Public Projects greater than \$175,000 – formal bidding procedures.



REVENUE AND FINANCE

The primary sources of revenue for special districts are *ad valorem* property taxes, special taxes, assessments, fees, and bonds. The California Constitution and various statutes play a large role in permitting as well as limiting districts' abilities to receive and utilize revenue from these sources. This guide will first address the fundamental statutes and constitutional provisions relating to these revenue sources. Next, we'll look at some of the laws that relate or restrict how special districts may spend revenues. Finally, this guide will highlight other important statutes related to special district revenue and financing.

Fundamental Revenue Provisions

A number of California State Constitution provisions and other statutes form the basic foundation of special district finance. These include laws that govern how property tax is collected and distributed, limits on property tax increases, and the methods by which special taxes can be assessed.

Ad Valorem Property Tax

California Constitution Article XIII A and XIII A

The term "ad valorem" is derived from Latin meaning "to the value" or "based on value." Ad valorem property taxes are taxes based upon the value of property. Proposition 13 limited the amount of tax that can be levied to 1 percent of the property's value. Proposition 13 also gave the State the authority to distribute this revenue, which it has done through formulas contained in Assembly Bill 8 (1979) and subsequent legislation. The value of property is assessed upon a change in ownership and adjusted upward each year by a rate not to exceed 2 percent to account for inflation. Ad valorem property taxes are a fundamental source of funding for most local governments and the primary source of revenue for many special districts.

Assembly Bill 8 (1979)

Revenue and Taxation Code §95, et seq.

This is the primary statute used to implement the constitutional changes created by Proposition 13. AB 8 contains a formula, which is used to distribute each county's 1 percent *ad valorem* property tax among the local government agencies in the county. The proportionate share is generally based upon the property taxes each local government agency received prior to 1978. AB 8 was also designed to provide some relief to local government agencies struggling due to the effects of the passage of Proposition 13.

Assessments

California Constitution Article XIII D

A special district may finance the maintenance and operation of public systems that include, but are not limited to, drainage, flood control, and street lighting. Assessments are involuntary charges on property owners, who pay for these public works based on the benefit their properties receive from the improvements through increased property values. Assessments include special, benefit, and maintenance assessments, and special assessment taxes. Assessments are subject to a weighted election.

Education Revenue Augmentation Fund (ERAF)

Revenue and Taxation Code §96, et seq.

Starting in 1992, in response to the state's budget woes, the Legislature implemented the first ERAF, shifting property tax revenue from local governments to schools, thus relieving the state of some of its fiscal responsibility to fund schools. A second shift (ERAF II) was implemented in 1993, but took less from local governments and exempted health and safety agencies. Both are still ongoing. In 2004, in a compromise with the local governments, a third shift (ERAF III) was allowed to take place, but only for two years, and significant restrictions were placed on the state's ability to raid local government funding through Proposition 1A.



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Fees

California Constitution Article XIII D

A fee is a charge to an individual or a business for a service provided directly to the individual or business. Non-property related fees are not subject to majority vote requirements. Property related fees may not be extended, imposed, or increased without first complying with the procedural requirements of Proposition 218. There are also substantive requirements that property related fees must comply with, the most important of which is the fee imposed must not exceed the proportional cost of the service attributable to the parcel or person charged.

Proposition 1A (2004)

California Constitution Articles XI §15, XIII §25.5 and XIIB §6

Proposition 1A amended the California Constitution to limit the ability of state government to shift tax revenue from local governments, as was done for the 1992-93 and 1993-94 ERAF shifts. Proposition 1A was a compromise between local governments and the state. This measure allowed a final shift (ERAF III) lasting two years, and created strict limitations for future shifts. CSDA was part of the coalition (LOCAL) that worked to pass Proposition 1A.

Proposition 13 (1978)

California Constitution Article XIII A

Proposition 13, officially named the “People’s Initiative to Limit Property Taxation”, was the first in a series of propositions directed at altering the way state and local governments levy and collect taxes. The primary feature of Proposition 13 was its limit on *ad valorem* property taxes contained in Section 1(a) of the measure: “The maximum amount of any ad valorem tax on real property shall not exceed one percent (1 percent) of the full cash value of such property...” Prior to Proposition 13 local governments generally had the authority to establish their own property tax rates. Proposition 13 transferred this authority to the State, which became responsible for allocating property tax revenue among local governments. It did this through Assembly Bill 8 (1979) and subsequent legislation. Finally, Proposition 13 eliminated the practice of annually assessing property value. Instead, Proposition 13 provides that property can only be reassessed upon a change of ownership, but also allows for assessed values to be increased based on an annual inflation factor not to exceed 2 percent.

Proposition 62 (1986)

Government Code §53720, et seq.

Proposition 62 provided further requirements for the adoption of special taxes by local agencies. This proposition prohibits a local agency from imposing a tax for specific purposes (a “special tax”) unless it is approved by two-thirds of the voters, or a tax for general purpose (a “general tax”), unless it is approved by a majority of the voters.



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Proposition 218 (1996)

California Constitution Articles XIII C and XIID

Proposition 218, officially named the “Right to Vote on Taxes Act,” made several changes to the California Constitution affecting the ability of special districts and local governments to assess taxes, assessments, and fees. This proposition established the initiative power allowing voters to reduce or repeal any local tax, assessment, fee, or charge. A new category of fee was created called “property related fees and charges” and required that such fees be no more than the cost of providing the service the fee is for. Proposition 218 also established a number of other procedural requirements for levying assessments and imposing new, or increasing existing, property related fees and charges.

Special Taxes

California Constitution Articles XIII A §4 and XII C §2

Government Code §50075, et seq., 53970, et seq.

A special tax is a property tax imposed for a specific, or “special” purpose. Special taxes are taxes – not fees, charges, or special assessments – and as such the amount of the tax is not limited to the relative benefit each property owner will receive. Unlike the 1 percent ad valorem property tax, which is based on property value, these taxes are typically levied on parcels based either on square footage or as a flat charge. A local government may impose, extend, or increase a special tax only if the proposal is submitted to the electorate and approved by a two-thirds vote. Special taxes may be reduced or repealed by popular initiative. All taxes imposed by a special district are inherently special taxes (as opposed to general taxes) because districts are service specific and can only use funds for those specific purposes.

Spending

Special districts are limited in the way they spend public funds and the amounts that may be spent. Special districts are also subject to various reporting requirements to ensure the public can hold districts accountable for the prudent spending of public funds.

Appropriations Limit (Gann Limit)

California Constitution Article XIII B

Government Code §7900, et seq.

The Appropriations Limit (often referred to as the “Gann Limit”) provides a limit (or ceiling) on local government agency appropriations of tax proceeds. This limit is based on the amount of appropriations in the 1978-79 “base year” and is adjusted each year for population growth and cost-of-living factors. The limit applies to proceeds from taxes, investment earnings on taxes, and fees and charges. If the agency’s proceeds are in excess of the limit, excess amounts are to be turned over to the state to be used for school funding. Special districts are specifically included in the definition of “local government[s]” subject to the appropriations limit. However, there is an exception for “any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 1/2 cents per \$100 of assessed value.” There is also an exception for districts that are funded entirely from proceeds other than taxes.

Bond Oversight

Government Code §53410, et seq.

Any local bond that is subject to voter approval, and provides for the sale of bonds by a special district, must be transparent. A special district must file a report that indicates the purpose of the bond and the account into which the proceeds will be submitted, as well as an annual report on how bond proceeds were actually spent.



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Compensation

Compensation of special district board members, commissioners, and trustees varies by principal act, as do any provisions related to increases in compensation. Check the district principal act for procedures for a specific district type.

See Appendix B

Gift of Public Funds

California Constitution Article XVI §6

The California Constitution prohibits the giving, lending, and gifting of public money to any person, association, or corporation. However, the prohibition on “gifts” has been interpreted to exclude expenditures that incidentally benefit a private recipient, and which promote a valid and substantial public purpose within the authorized mission of the public agency appropriating the funds. Whether a certain expenditure falls within the prohibition of gifts of public funds can depend on the nature of the expenditure, the nature of the claimed public purpose, and the extent the expenditure will contribute to that purpose.

Special Taxes Oversight

Government Code §50075.1, §50075.3, and §50075.5

Local officials are required to issue annual reports on how they spend special tax revenues. The report includes the amount of funds collected and spent, as well as the status of projects for which the special tax was implemented.

Other Revenue Provisions

The following contains various laws which provide alternative revenue avenues available to special districts. These include statutorily authorized investment funds, general and revenue bond provisions, and Mello-Roos financing.

Benefit Assessment Act of 1982

Government Code §54703, et seq.

This law provides a mechanism for financing the maintenance and operation of public systems such as drainage, flood control, and street lighting. Since it is considered a benefit assessment, the Act is not subject to Proposition 13 limitations. However, a district that uses this mechanism must first prepare a written report, hold a noticed public hearing, and obtain a majority vote through an assessment balloting procedure of the affected property owners.

CalTRUST

Government Code §6500, et seq.

CalTRUST is a joint powers agency that offers special districts and other local agencies a convenient method for pooling investments with other local government agencies with three options – money market, short-term and medium-term accounts. Total assets in the CalTRUST investment pool total over \$2 billion, nearly a third of which are from special district investments.

Enhanced Infrastructure Financing Districts

Government Code §53398.50, et seq.

Enhanced Infrastructure Financing Districts can be created by municipalities in partnership with other local agencies (except school-related agencies) to invest tax increment revenues in local infrastructure projects. Tax increment is the future incremental growth in property tax revenues. Special districts may “opt-in” by pledging part or all of their tax increment to these infrastructure projects.



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Fire Suppression Assessments

Government Code §50078, et seq.

Combined with Proposition 218, the government code gives authority to a special district that provides fire suppression services to determine and levy an assessment for fire suppression services with two-thirds voter approval. The assessment may be made for the purpose of obtaining, furnishing, operating, and maintaining fire suppression equipment, or for the purpose of paying the salaries and benefits of firefighting personnel, or both.

General Obligation Bonds and Revenue Bonds

Government Code §53400, et seq.; Various Provisions

General obligation bonds are issued by special districts and other local and state governments to finance a variety of infrastructure projects and services. There are a variety of statutes that create authority for the issuance of bonds – some principal acts for district types contain bond provisions and various other statutes grant bond authority for different uses and with different conditions. General obligation bonds are backed by all of an agency's revenues whereas revenue bonds are backed by a specifically identified revenue source.

Interest Rate Limit on Local Bonds

Government Code §53530, et seq.

State law limits the interest rate on local bonds. Although authority is provided to local agencies to issue bonds bearing interest at the coupon rate or as determined by the legislative body in its discretion, the interest rate may not exceed 12 percent per year, unless some higher rate is permitted by law.

Investment of Funds

California Constitution Article XI §11

Government Code §53600, et seq.

The California Constitution provides that the Legislature may authorize local government agencies to invest funds in certain specified vehicles. The Legislature has provided that local government agency surplus funds may be invested, with certain conditions and limitations.

Local Agency Investment Fund

Government Code §16429.1, et seq.

The Local Agency Investment Fund is a trust in the custody of the State Treasurer. Local government agencies may deposit money not required for immediate needs into the fund for investment purposes. This fund gives special districts the opportunity to participate in a major portfolio, utilizing the investment expertise of the Treasurer's Office, at no additional cost to taxpayers.

Mello-Roos Community Facilities Act

Government Code §53311, et seq.

The Mello-Roos Community Facilities Act provides a method for special districts and other local government agencies to finance major capital improvements and some types of services. The act authorizes the creation of Community Facilities Districts which can levy special taxes subject to two-thirds voter approval or by land owner votes, weighted by acreage owned, if there are less than 12 registered voters within the district.



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Mark-Roos Local Bond Pooling Act of 1985

Government Code §6584, et seq.

The Mark-Roos Bond Pooling Act allows local government agencies to enter into a joint powers agreement creating a Joint Powers Authority, which can issue Mark-Roos bonds and loan the proceeds to the local government agencies. The purpose of this act is to allow local government agencies to take advantage of the lower borrowing costs associated with bond pools.

Securitized Limited Obligation Notes

Government Code §53835, et seq.

Special districts may issue securitized limited obligation notes (SLONs) and borrow up to \$2 million to be paid back from designated revenues over a ten year period. SLONs are a more secure and less expensive alternative to promissory notes and do not require voter approval. However, a special district must secure its SLONs by pledging a dedicated stream of revenues. It takes a four-fifths vote of a district's government board to issue SLONs. The authorization for the issuance of SLONs ends December 31, 2019.

Surplus Land (sold by the state)

Government Code §11011.1

State departments that are selling surplus land (as defined) must first make that land available to local jurisdictions, including special districts, to purchase at fair market value.

State Assistance for Fire Equipment Act

Government Code §8589.8, et seq.

This act allows the Office of Emergency Services to acquire firefighting equipment and apparatus for resale to local government agencies. First priority for such sales is given to local agencies that serve rural areas. The Office has a system for identifying firefighting apparatus and equipment that is available for acquisition and local agencies interest in acquiring apparatus and equipment.

State Mandated Local Programs

California Constitution Article XIII B §6

Government Code §17500, et seq.

The California Constitution, as amended by Proposition 1A, requires local governments to be reimbursed for the cost of mandated new programs or higher levels of service. The Commission on State Mandates was established to determine if new laws impose reimbursable state mandated programs. If the Commission finds that a mandate is reimbursable, this automatically triggers a requirement that the state government either reimburse or suspend the mandate. If a mandate is suspended, the associated requirement for local government agencies becomes optional for the fiscal year, and no money will be allocated to local governments for reimbursements for that fiscal year.



SPECIAL DISTRICT PRINCIPAL ACTS

Principal acts are statutes established for an entire category of special districts. Local voters create and govern special districts under the authority of these acts. Each special district type (for example, flood control, public utilities, or community services districts) has its own principal act. The following is a list of independent special district types, the location of the associated principal act, and other relevant information about the district types.

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<i>Airport Districts Public Utilities Code</i> <i>§22001 et seq.</i>	Assist in the development of airports, spaceports, and air navigation facilities	Any territories of one or more counties and one or more cities, all or any part of any city and any part of the unincorporated territory of any county; the boundaries of a district may be altered and outlying contiguous territory in the same or an adjoining county annexed to the district	10	Elected by resident voters to 4 year terms	5 Directors
<i>California Water Districts</i> <i>Water Code §34000 et seq.</i>	Maintain the necessary works for the production, storage, and distribution of water for irrigation, domestic, industrial, and municipal purposes, and any drainage or reclamation works	Any area of land which is capable of using water beneficially for irrigation, domestic, industrial or municipal purposes and which can be serviced from common sources of supply and by the same system of works; area need not be contiguous	132	Elected by landowner voters to 4 year terms ¹	At least 5 Directors (may be increased to 7, 9, or 11) ²
<i>California Water Storage Districts</i> <i>Water Code §39000 et seq.</i>	Maintain the necessary works for the storage and distribution of water and drainage or reclamation works	Any land irrigated or capable of irrigation from a common source; under specific conditions the district need not be contiguous	8	Elected by landowner voters to 4 year terms	At least 5 Directors ²

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<p><i>Citrus Pest Districts</i></p> <p><i>Food and Agriculture Code §8401 et seq.</i></p>	Control and eradicate citrus pests	Any county devoted exclusively to the growing of citrus fruits	9	Appointed by the Board of Supervisors to fixed 4 year terms	5 Directors ³
<p><i>Community Services Districts</i></p> <p><i>Government Code §61000 et seq.</i></p>	Provide up to 32 different services such as, water, garbage collection, wastewater management, security, fire protection, public recreation, street lighting, mosquito abatement services, etc.	Any county or counties of an unincorporated territory or incorporated territory of a contiguous or noncontiguous area	321	Elected by resident voters to 4 year terms ⁴	5 Directors
<p><i>Cotton Pest Abatement Districts</i></p> <p><i>Food and Agriculture Code §6051 et seq.</i></p>	Control and prevent introduction of pests, and oversee cotton plants in areas that are at risk of pests	Any land in more than one of the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura with the consent of the Board of Supervisors of the counties affected	1	Appointed by the Board of Supervisors to fixed 4 year terms	5 Directors ⁵

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<p><i>County Sanitation Districts</i></p> <p><i>Health and Safety Code §4700 et seq.</i></p>	Maintain and operate sewage systems and sewage disposal or treatment plants	Any unincorporated or incorporated territory or both; the incorporated territory included in the district may include the whole or part of one or more cities with the permission of that city	37	Elected by resident voters to 4 year terms or may choose to have a mixed board ⁶	3 Directors
<p><i>County Water Districts</i></p> <p><i>Water Code §30000 et seq.</i></p>	Develop regulations for the distribution and consumption of water; sell water; collect and dispose sewage, garbage, waste, trash and storm water; store water for future needs; may generate hydroelectric power; and provide fire protection under specified conditions	Any county or two or more contiguous counties or of a portion of such county or counties, whether the portion includes unincorporated territory or not	169	Elected by resident voters to 4 year terms ⁴	At least 5 Directors (may be increased to 7, 9, or 11)
<p><i>Fire Protection Districts</i></p> <p><i>Health and Safety Code §13800 et seq.</i></p>	Provide fire protection and other emergency services	Any territory, whether incorporated or unincorporated, whether contiguous or noncontiguous, may be included	346	Elected by resident voters to 4 year terms or appointed by the Board of Supervisors (and City Council where applicable) to fixed 4 year terms ⁷	May be 3, 5, 7, 9 or 11 Directors (not to exceed 11)
<p><i>Harbor Districts</i></p> <p><i>Harbors and Navigation Code §6000 et seq.</i></p>	Manage any bay, harbor, inlet, river, channel, etc. in which tides are affected by the Pacific Ocean	Any portion or whole part of a county, city, or cities, the exterior boundary of which includes a harbor	7	Elected by resident voters to 4 year terms	5 Commissioners

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<p><i>Health Care/ Hospital Districts</i></p> <p><i>Health and Safety Code §32000 et seq.</i></p>	<p>Establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services, including, but not limited to: outpatient programs, services, and facilities; retirement programs, services, and facilities; chemical dependency programs, services, and facilities</p>	<p>Any incorporated or unincorporated territory, or both, or territory in any one or more counties; the territory comprising this district need not be contiguous but the territory of a municipal corporation shall not be divided</p>	79	Elected by resident voters to 4 year terms	5 Directors
<p><i>Irrigation Districts</i></p> <p><i>Water Code §20500 et seq.</i></p>	<p>Sell and lease water; operate sewage collection and disposal system; deliver water for fire protection; dispose and salvage sewage water; protect against damage from flood or overflow; provide drainage made necessary by the irrigation provided; maintain recreational facilities in connection with any dams, reservoirs, etc.; and operate and sell electrical power</p>	<p>Any land capable of irrigation; includes land used for residential or business purposes susceptible of receiving water for domestic or agriculture purposes; need not be contiguous</p>	92	Elected by resident voters to 4 year terms ⁸	3 or 5 Directors
<p><i>Levee Districts</i></p> <p><i>Water Code §70000 et seq.</i></p>	<p>Protect the district's land from overflow by constructing and maintaining the necessary infrastructure</p>	<p>Any county or counties or any portion thereof of an unincorporated territory or incorporated territory in need of protection of the lands of the district from overflow and for the purpose of conserving or adding water to the sloughs and drains</p>	13	Elected by landowner voters to 4 year terms	3 Directors

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<i>Library Districts Education Code §19400 et seq.</i>	Equip and maintain a public library in order to exhibit knowledge in a variety of areas	Any incorporated or unincorporated territory, or both, in any one or more counties, so long as the territory of the district consists of contiguous parcels and the territory of no city is divided	13	Appointed by the Board of Supervisors to fixed 4 year terms	3 or 5 Trustees
<i>Memorial Districts Military and Veterans Code §1170 et seq.</i>	Operate and maintain memorial halls, meeting places, etc. for veterans	Any incorporated territory of the county together with any contiguous unincorporated territory thereof; or may be formed entirely of contiguous incorporated territory; or entirely of contiguous unincorporated territory	27	Elected by resident voters to 4 year terms	5 Directors ⁹
<i>Mosquito Abatement and Vector Control Districts Health and Safety Code §2000 et seq.</i>	Conduct effective programs for the surveillance, prevention, abatement and control of mosquitos and other vectors	Any territory, whether incorporated or unincorporated, whether contiguous or noncontiguous and districts may not overlap	47	Appointed by the Board of Supervisors or the City Council to fixed 2-4 year terms ¹⁰	5 Trustees

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<p><i>Municipal Utility Districts</i></p> <p><i>Public Utilities Code §11501 et seq.</i></p>	<p>Manage and supply light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage or refuse matter</p>	<p>Any public agency together with unincorporated territory, or two or more public agencies, with or without unincorporated territory; public agencies and unincorporated territory included within a district may be in the same or separate counties and need not be contiguous; no public agency shall be divided in the formation of a district</p>	5	<p>Elected by resident voters to 2-4 year terms¹¹</p>	5 Directors
<p><i>Municipal Water Districts</i></p> <p><i>Water Code §71000 et seq.</i></p>	<p>Develop and sell water; promote water use efficiency; operate public recreational facilities; provide fire protection; collect and dispose trash, garbage, sewage, storm water and waste; and generate, sell and deliver hydroelectric power</p>	<p>Any county or counties, or of any portions thereof, whether such portions include unincorporated territory only or incorporated territory of any city or cities; cities and unincorporated territory does not need to be contiguous</p>	37	<p>Elected by resident voters to 4 year terms</p>	5 Directors
<p><i>Police Protection Districts</i></p> <p><i>Health and Safety Code §20000 et seq.</i></p>	<p>Provide police service to a community</p>	<p>May be formed in unincorporated towns</p>	3	<p>Elected by resident voters to 2-4 year terms</p>	3 Commissioners

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<i>Port Districts Harbors and Navigation Code</i> <i>§6200 et seq.</i>	Maintain and secure the ports	Shall include one municipal corporation and any contiguous unincorporated territory in any one county, but a municipal corporation shall not be divided	5	Appointed by the Board of Supervisors and City Council to fixed 4 year terms, and approved by resident voters	5 Commissioners
<i>Public Cemetery Districts</i> <i>Health and Safety Code</i> <i>§9000 et seq.</i>	Maintain public cemeteries in communities as necessary	Any territory, whether incorporated or unincorporated, whether contiguous or noncontiguous; districts may not overlap	248	Appointed by the Board of Supervisors to fixed 4 year terms	3 or 5 Trustees
<i>Public Utility Districts</i> <i>Public Utilities Code §15501 et seq.</i>	Maintain the infrastructure to provide electricity, natural gas, water, power, heat, transportation, telephone service, or other means of communication, or the disposition of garbage, sewage, or refuse matter	May be incorporated and managed in unincorporated territory	54	Elected by resident voters to 2-4 Year terms ¹²	At least 3 Directors
<i>Reclamation Districts</i> <i>Water Code</i> <i>§50000 et seq.</i>	Reclaim and maintain land that is at risk of flooding for a variety of purposes	Any land within any city in which land is subject to overflow or incursions from the tide or inland waters of the state	150	Elected by landowner voters to 4 year terms	3, 5 or 7 Trustees

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<p><i>Recreation and Park Districts</i></p> <p><i>Public Resources Code §5780 et seq.</i></p>	Organize and promote programs of community recreation, parks and open space, parking, transportation and other related services that improve the community's quality of life	Any territory, whether incorporated or unincorporated, whether contiguous or noncontiguous	95	Elected by resident voters to 4 year terms or appointed by the Board of Supervisors to fixed 4 year terms	5 Directors
<p><i>Resource Conservation Districts</i></p> <p><i>Public Resources Code §9151 et seq.</i></p>	Manage a diversity of resource conservation projects, including soil and water conservation projects, wildlife habitat enhancement and restoration, control of exotic plant species, watershed restoration, conservation planning, education, and many others	Any land shall be those generally of value for agricultural purposes, but other lands may be included in a district if necessary to conserve resources	99	Elected by resident voters to 4 year terms	5, 7, or 9 Directors
<p><i>Sanitary Districts Health and Safety Code</i></p> <p><i>§6400 et seq.</i></p>	Maintain and operate garbage dumpsites, garbage collection and disposal systems, sewers, storm water drains and storm water collection, recycling and distribution systems	Any county, or in two or more counties within the same natural watershed area	66	Elected by resident voters to 4 year terms	5 Directors

Special District Type	Powers and Functions	Formation	Independent Special Districts	Election Information	Number of Board Members
<p><i>Transit Districts</i></p> <p><i>Public Utilities Code §24501 et seq.</i></p>	<p>Construct and operate rail lines, bus lines, stations, platforms, terminals and any other facilities necessary or convenient for transit service</p>	<p>Any city together with unincorporated territory, or two or more cities, with or without unincorporated territory may organize and incorporate as a transit district; cities and unincorporated territory included within a district may be in the same or separate counties and need not be contiguous; no city shall be divided in the formation of a district</p>	<p>17</p>	<p>Elected by resident voters to 2- 4 year terms ¹³</p>	<p>7 Directors</p>
<p><i>Water Conservation Districts</i></p> <p><i>Water Code §74000 et seq.</i></p>	<p>Maintain, survey, and research water supplies</p>	<p>Unincorporated territory or partly within unincorporated and partly within incorporated territory, and may be within one or more counties that need water conservation services; territory does not need to be contiguous</p>	<p>13</p>	<p>Elected by resident voters to 4 year terms</p>	<p>3, 5 or 7 Directors</p>
<p><i>Water Replenishment Districts</i></p> <p><i>Water Code §60000 et seq.</i></p>	<p>Replenish the water and protect and preserve the groundwater supplies</p>	<p>Any land entirely within unincorporated territory, or partly within unincorporated territory and partly within incorporated territory, and within one or more counties in this state</p>	<p>2</p>	<p>Elected by resident voters to 4 year terms</p>	<p>5 Directors</p>

1. *Can be changed to resident voter by the Board of Supervisors through a resolution and a petition (See Water Code §35040)*
2. *Board member must be a holder or legal representative of title to land within the district or designated by a holder of title of land (See Water Code §34700)*
3. *Must be an owner of land devoted to the growing of the product for which the district is established (See Food and Agriculture Code §8502)*
4. *May be elected: At large, by divisions, or from divisions*
5. *Food and Agriculture Code §6060: "No person shall, at any time, be eligible to hold the office of director of any district unless he or she is a resident of the state, and a cotton grower, either individually or as a joint tenant of, or is a member of a partnership which owns, or is an officer of, a corporation which grows cotton within the district"*
6. *For specifics on the county sanitation district mixed board, please see Health and Safety Code §4730-4730.1*
7. *Dependent upon existence of cities within the district*
8. *Water Code §21552: "The number of divisions may be changed to three or five or the method of electing directors may be changed to election by the district at large or by divisions, or both changes may be made simultaneously"*
9. *Military and Veterans Code §1170: "A majority of the seats on the board shall be designated for veterans, as defined in Section 940. Any board seat that is so designated, but is not currently filled by a qualifying individual, shall be filled by a qualified individual at the next election at which that seat is to be filled"*
10. *Health and Safety Code §2024 (a): "..., the term of office for a member of the board of trustees shall be for a term of two or four years, at the discretion of the appointing authority"*
11. *Elected at large from nominees that represent each of the five wards within the district (See Public Utilities Code §11641-11656)*
12. *Elected at large and from territorial units in unincorporated areas suited within the county (See Public Utilities Code §15951-15976)*
13. *Elected at large from nominees that represent each of the five wards within the district and two are elected at large (See Public Utilities Code §24801)*



SPECIAL DISTRICT SPECIAL ACTS

Statutes that address the specific needs of a community and establish a specific special district to address those needs. These districts (rather than district types) are uniquely created by the Legislature. Below is a list of special acts:

AIR POLLUTION CONTROL

Bay Area Air Quality Management District.....	Health and Safety 40200 et seq.
South Coast Air Quality Management District	Health and Safety 40410 et seq.
San Joaquin Valley Air Quality Management District	Health and Safety 40600 et seq.
Sacramento Metropolitan Air Quality Management District.....	Health and Safety 40950 et seq.
Mojave Desert Air Quality Management District	Health and Safety 41200 et seq.
Antelope Valley Air Quality Management District	Health and Safety 41300 et seq.

AIRPORT

Monterey Peninsula Airport District Act.....	**
San Diego County Regional Airport Authority	Public Utilities 170000 et seq.

DRAINAGE

Knights Landing Ridge Drainage District Law	Water* 21-1
(Year 1913) Chapter 99	

FLOOD CONTROL AND WATER CONSERVATION

San Diego County Flood Control District Act	Water* 50-1
(Year1966) Chapter 55	
Flood Control and Flood Water Conservation District Act.....	Water* 38-1
(Year1931) Chapter 641	
Alameda County Flood Control and Water Conservation District Act.....	Water* 55-1
(Year1949) Chapter 1275	
American River Flood Control District Act.....	Water* 37-1
(Year1927) Chapter 808	
Contra Costa County Flood Control and Water Conservation District Act.....	Water* 63-1
(Year1951) Chapter 1617	
Del Norte County Flood Control District Act	Water* 72-1
(Year 1955) Chapter 166	
Fresno Metropolitan Flood Control Act.	Water* 73-1
(Year1955) Chapter 503	
Humboldt County Flood Control District Act.....	Water* 47-1
(Year 1945) Chapter 939	
Lake County Flood Control and Water Conservation District Act	Water* 62-1
(Year1951) Chapter 1544	
Lassen-Modoc County Flood Control and Water Conservation District Act.....	Water* 92-1
(Year 1959) Chapter 2127	
Los Angeles County Flood Control Act.....	Water* 28-1
(Year 1915) Chapter 755	

Marin County Flood Control and Water Conservation District Act.....	Water*	68-1
(Year 1953) Chapter 666		
Mendocino County Flood Control and Water Conservation District Act.....	Water*	54-1
(Year 1949) Chapter 995		
Monterey County Flood Control and Water Conservation District Act	Water*	52-1
(Year 1947) Chapter 699		
Napa County Flood Control and Conservation District Act	Water*	61-1
(Year 1951) Chapter 1449		
Orange County Flood Control Act	Water*	36-1
(Year 1927) Chapter 723		
Plumas County Flood Control and Waste Conservation District Act.....	Water*	88-1
(Year 1959) Chapter 2114		
Riverside County Flood Control and Water Conservation District Act	Water*	48-1
(Year 1945) Chapter 1122		
San Benito County Conservation and Flood Control District Act	Water*	70-1
(Year 1953) Chapter 1598		
San Bernardino County Flood Control Act.....	Water*	43-1
(Year 1939) Chapter 73		
San Joaquin County Flood Control and Water Conservation District Act.....	Water*	79-1
(Year 1956) Chapter 46		
San Luis Obispo County Flood Control and Water Conservation District Act...	Water*	49-1
(Year 1945) Chapter 1294		
San Mateo County Flood Control District Act	Water*	87-1
(Year 1959) Chapter 2108		
Santa Barbara County Flood Control and Water Conservation District Act.....	Water*	74-1
(Year 1955) Chapter 1057		
Santa Cruz County Flood Control and Water Conservation District Act.....	Water*	77-1
(Year 1955) Chapter 1489		
Sierra County Flood Control and Water Conservation District Act.....	Water*	99-1
(Year 1959) Chapter 2123		
Siskiyou County Flood Control and Water Conservation District Act.....	Water*	89-1
(Year 1959) Chapter 2121		
Solano County Flood Control and Water Conservation District Act	Water*	64-1
(Year 1951) Chapter 1656		
Stanislaus County Flood Control and Enabling Act	Water*	120-1
(Year 1981) Chapter 421		
Tehama County Flood Control and Water Conservation District Act.....	Water*	82-1
(Year 1957) Chapter 1280		
Ventura County Flood Control Act	Water*	46-1
(Year 1944) Chapter 44		
Yolo County Flood Control and Water Conservation District Act.....	Water*	65-1
(Year 1951) Chapter 1657		
Tulare County Flood Control and Water Conservation District Act.....	Water*	111-1
(Year 1969) Chapter 1149		
Madera County Flood Control and Water Conservation District Act.....	Water*	110-100
(Year 1983) Chapter 916		

Colusa County Flood Control and Water Conservation Act..... Water* 123-1
 (Year1984) Chapter926
 Sutter County Flood Control and Water Conservation District Act Water* 125-1
 (Year1984) Chapter688
 Placer County Flood Control and Water Conservation District Act Water* 126-1
 (Year1984) Chapter689
 Bay Area Water Supply and Conservation Agency Water 81300 et seq.
 Napa County Flood Protection and Watershed Authority..... Revenue and Taxation 7285.5 et
 seq.

HARBOR AND PORT

San Diego Unified Port District Act..... **
 (Year1970) Chapter 1283
 Humboldt Bay Harbor Recreation and Conservation District Act **

LOCAL HEALTH DISTRICTS

Monterey County Special Health Care Authority Act..... Health and Safety 1170 et seq.
 Santa Barbara County Health Care Authority Act..... Health and Safety 1175 et seq.
 Coast Life Support District Act General Law
 (Year1986) Chapter 375

MUNICIPAL IMPROVEMENT

Montalvo Municipal Improvement District Act..... **
 (Year 1955) Chapter 549
 Guadalupe Valley Municipal Improvement District Act..... **
 (Year1959) Chapter 2037
 Bethel Island Municipal Improvement District Act..... **
 (Year1960) Chapter 22
 Embarcadero Municipal Improvement District Act..... **
 (Year1960) Chapter 81
 Estero Municipal Improvement District Act **
 (Year1960) Chapter 82

LEVEE

Levee District Number One of Sutter County Water* 1-1
 (Year1873) Chapter 349
 City of Marysville Levee District..... Water*
 (Year1875) Chapter 134
 Protection District Act of 1880..... Water* 4-1
 (Year1880) Chapter 63
 Sacramento River West Side Levee District..... Water* 26-1
 (Year1915) Chapter 361
 Lower San Joaquin Levee District Act..... Water* 75-1
 (Year1955) Chapter 1075
 Brannan-Andrus Levee Maintenance District Act..... Water* 106-1
 (Year1967) Chapter 910

LIBRARY

Union High School District Public Libraries Education 18301 et seq.
NAPA County Winegrape Pest And Disease Control District Law Food and Agriculture 6292 et seq.

RECLAMATION

Reclamation District No. 10 Water* 24-1
(Year 1913) Chapter 194
Reclamation District No. 70 Water* 10-1
(Year 1905) Chapter 552
Reclamation District No. 317 Water* 3-1
(Year 1877) Chapter 379
Reclamation District No. 800 Water* 12-1
(Year 1907) Chapter 213
Reclamation District No. 830 Water* 15-1
(Year 1911) Chapter 171
Reclamation District No. 833 Water* 17-1
(Year 1911) Chapter 403
Reclamation District No. 900 Water* 14-1
(Year 1911) Chapter 100
Reclamation District No. 999 Water* 23-1
(Year 1913) Chapter 161
Reclamation District No. 1000 Water* 19-1
(Year 1911) Chapter 412
Reclamation District No. 1001 Water* 18-1
(Year 1911) Chapter 411
Reclamation District No. 1500 Water* 22-1
(Year 1913) Chapter 100
Reclamation District No. 1600 Water* 25-1
(Year 1913) Chapter 195
Reclamation District No. 1660 Water* 27-1
(Year 1915) Chapter 591
Reclamation District No. 2031 Water* 30-1
(Year 1919) Chapter 338
Union Island Reclamation District No. 1 and 2 Water* 7-1
(Year 1903) Chapter 36

RECREATION AND PARK

Lake Cuyamaca Recreation and Park District Act **
(Year 1961) Chapter 1654
Mount San Jacinto Winter Park Authority Act **
(Year 1945) Chapter 1040

SANITATION AND FLOOD CONTROL DISTRICT ACT

Vallejo Sanitation and Flood Control District Act of 1952 Water* 67-1
(Year 1952) Chapter 17
Tahoe-Truckee Sanitation Agency District Act of 1971 **
(Year 1971) Chapter 1560

SEWER AND SEWER MAINTENANCE

Fairfield-Suisun Sewer District Act **
(Year 1951) Chapter 303

RESOURCE CONSERVATION DISTRICTS

Tahoe Resource Conservation District Act Public Resources 9951 et seq.

STORMWATER DRAINAGE AND MAINTENANCE

Contra Costa County Storm Drainage District Act Water* 69-1
(Year 1953) Chapter 1532

TRANSIT

San Francisco Bay Area Rapid Transit District Act Public Utilities 28500 et seq.
Stockton Metropolitan Transit District Law Public Utilities 50000 et seq.
Southern California Rapid Transit District Law Public Utilities 30000 et seq.
Marin County Transit District Act of 1984 Public Utilities 70000 et seq.
Santa Barbara Metropolitan Transit District Act of 1965 Public Utilities 95000 et seq.
Santa Cruz Metropolitan Transit District Act of 1967 Public Utilities 98000 et seq.
Santa Clara County Transit District Act Public Utilities 100000 et seq.
Golden Empire Transit District Act Public Utilities 101000 et seq.
Sacramento Regional Transit District Act Public Utilities 102000 et seq.
San Mateo County Transit Public Utilities 103000 et seq.
North San Diego County Transit Development Board Public Utilities 125000 et seq.
North Coast Railroad Authority Act Public Utilities 93000 et seq.

PUBLIC UTILITY

Olivehurst Public Utility District Act Water* 56-1
(Year 1950) Chapter 12
Donner Summit Public Utility District Act Water* 58-1
(Year 1950) Chapter 15

METROPOLITAN WATER DISTRICT Water* 109-1

(Year 1969) Chapter 209

WATER AGENCY OR AUTHORITY

Alpine County Water Agency Act Water* 102-1
 (Year 1961) Chapter 1896

Amador County Water Agency Act..... Water* 95-1
 (Year 1959) Chapter 2146

Antelope Valley-East Kern Water Agency Law..... Water* 95-50
 (Year 1959) Chapter 2146

Contra Costa County Water Agency Act Water* 80-1
 (Year 1957) Chapter 518

Desert Water Agency Law..... Water* 100-1
 (Year 1961) Chapter 1069

El Dorado County Water Agency Act..... Water* 96-1
 (Year 1959) Chapter 2139

Kern County Water Agency Act Water* 99-1
 (Year 1961) Chapter 1003

Mariposa County Water Agency Act..... Water* 85-1
 (Year 1959) Chapter 2036

Mojave Water Agency Act Water* 97-1
 (Year 1959) Chapter 2146

Nevada County Water Agency Act..... Water* 90-1
 (Year 1959) Chapter 2122

Orange County Water District Act Water* 40-1
 (Year 1933) Chapter 924

Placer County Water Agency Act..... Water* 81-1
 (Year 1957) Chapter 1234

Sacramento County Water Agency Act Water* 66-1
 (Year 1952) Chapter 10

San Geronio Pass Water Agency Act..... Water* 101-1
 (Year 1961) Chapter 1435

Santa Barbara County Water Agency Act Water* 51-1
 (Year 1945) Chapter 1501

Shasta County Water Agency Act..... Water* 83-1
 (Year 1957) Chapter 1512

Sutter County Water Agency Act..... Water* 86-1
 (Year 1959) Chapter 2088

Yuba County Water Agency Act..... Water* 84-1
 (Year 1959) Chapter 788

County Water Authority Act Water* 45-1
 (Year 1943) Chapter 545

Monterey Peninsula Water Management Act Water* 118-1
 (Year 1977) Chapter 527

Yuba-Bear River Basin Authority Act..... Water* 93-1
 (Year 1959) Chapter 2131

Crestline-Lake Arrowhead Water Agency Act..... Water* 104-1
 (Year 1962) Chapter 40

Castaic Lake Water Agency Law	Water*	9099B
(Year 1962) Chapter 28		
Bighorn Mountain Water Agency Act	Water*	9099D
(Year 1969) Chapter 1175		
Sonoma County Water Agency Act	Water*	7757
(Year 1949) Chapter 994		
Santa Clara Valley Water District	Water*	7335
(Year 1973) Chapter 56		
North Delta Water Agency Act.....	Water*	115-1
(Year 1973) Chapter 283		
South Delta Water Agency Act	Water*	116-1
(Year 1973) Chapter 1089		
Central Delta Water Agency Act	Water*	115-1
(Year 1973) Chapter 1133		
Tuolumne County Water Agency Act.....	Water*	113-1
(Year 1969) Chapter 1236		

Pajaro Valley Water Management Agency Act.....	Water*	124-1
(Year 1984) Chapter 257		
Ojai Basin Groundwater Management Agency Act.....	Water*	131-101
(Year 1991) Chapter 750		

WATER CONSERVATION

Kings River Conservation District Act.....	Water*	59-1
(Year 1951) Chapter 931		

TOLL TUNNEL
AUTHORITY

El Dorado County Toll Tunnel Authority Act.....	Streets and Highways	31100 et seq.
Los Angeles County Toll Tunnel Authority Act.....	Streets and Highways	31100 et seq.

* Uncodified acts referenced are in the Water Code of West's Annotated California Codes.

**Uncodified acts referenced in the statutes of California.



California Special Districts Association

Districts Stronger Together

ADDITIONAL RESOURCES

The following is a list of some additional publications and resources, which cover in greater depth the topics addressed in this guide.

FORMATION AND ORGANIZATION

Guide to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (2002), Assembly Local Government Committee

It's Time to Draw the Line: A Citizen's Guide to LAFCos (May 2003), Senate Local Government Committee

GENERAL INFORMATION

Hawkins Report, (1974), Local Government Reform Task Force

Special Districts: Relics of the Past or Resources for the Future? (May 2000), Little Hoover Commission

What's So Special About Special Districts (October 2010), Senate Local Government Committee Committee

GOVERNANCE

A Local Official's Guide to Ethics Laws (2005), Institute for Local Government

Integrity and Accountability: Exploring Special Districts' Governance (November 2003), Senate Local Government Committee

Open & Public IV: A Guide to the Ralph Brown Act (2007), League of California Cities

Open, Ethical Leadership: AB 1234 Compliance Training for Special Districts, California Special Districts Association

Political Reform Act (2007), Fair Political Practices Commission

Summary of the California Public Records Act (2004), California Attorney General's Office

The Brown Act: Open Meetings for Local Legislative Bodies (2003), California Attorney General's Office

INDEPENDENT SPECIAL DISTRICT TYPE SPECIFIC

A New Law for a New Mission: SB 515 and the Fire Protection District Law of 1987 (October 1987), Senate Local Government Committee

Community Services, Community Needs (March 2006), Senate Local Government Committee

For Years to Come: A Legislative History of SB 341 and the "Public Cemetery District Law" (August 2004), Senate Local Government Committee

Parks, Progress and Public Policy: A Legislative History of Senate Bill 707 and the "Recreation and Park District Law" (October 2001), Senate Local Government Committee

Science, Service, and Statutes: A Legislative History of Senate Bill 1588 and the "Mosquito Abatement and Vector Control District Law" (September 2003), Senate Local Government Committee

PUBLIC WORKS

Guide to CEQA, Solano Press Books

REVENUE AND FINANCE

Assessing The Benefits of Benefit Assessment, 2nd Edition (December 2004), Senate Local Government

Property Taxes: Why Some Local Governments Get More Than Others (August 1996), Legislative Analyst's Office

Proposition 26 Guide for Special Districts, (2013), California Special Districts Association

Proposition 218 Guide for Special Districts, (2013), California Special Districts Association

Special District Reserve Guidelines, (2013), California Special Districts Association

The State Appropriations Limit (April 2000), Legislative Analyst's Office

Understanding Proposition 218 (December 2006), Legislative Analyst's Office

Programs



Promoting good governance.

The Special District Leadership Foundation (SDLF) is an independent, non-profit organization formed to promote good governance and best practices among California's special districts through certification, accreditation and other recognition programs. The SDLF and its activities are supported by the California Special Districts Association and the Special District Risk Management Authority.



Special District Administrator Certification

This is a voluntary designation sought by individuals who strive to be the best. Administrators with various academic and professional backgrounds, as well as from all sizes of special districts, can be candidates for the program. Guided by the SDLF Board, Certification Advisory Committee, and under direction by a professional examination development firm, this certification will give successful candidates recognition unmatched by any other program. This certification helps document and recognize a candidate's knowledge, skills and capabilities as a special district administrator.



Recognition in Special District Governance

Designed to honor special district board members and trustees, and is comprised of two distinct parts: the completion of the Special District Leadership Academy and 10 hours of continuing education.

The Special District Leadership Academy is comprised of four courses unique in that the curriculum has been created by special districts and agreed upon as what governing officials of special districts should know. SDLF has endorsed the Academy as the core special district governance training in California.



District Transparency Certificate of Excellence

This program was created in an effort to promote transparency in the operations and governance of special districts to the public and to provide special districts with an opportunity to showcase their efforts in transparency. There are no fees for this certificate and recognition is two years.

Three main subject areas: Basic Transparency Requirements; Website Requirements; and Outreach Requirements - These are only a sampling of all the requirements needed to complete the transparency certificate.



Districts of Distinction Accreditation

In a time where proper fiscal management and responsibility in public agencies is paramount and the task of governing these agencies has become even more complex, regulated and costly, it has become increasingly important to demonstrate to constituents that districts have sound fiscal management policies and practices in place among other areas of importance in district operations.

This accreditation is designed as a way for districts to highlight their prudent fiscal practices along with other areas important to effectively operate and govern a special district.



**California Special
Districts Association**

Districts Stronger Together

Special District Reserve Guidelines

SECOND EDITION



A GUIDE TO DEVELOPING A PRUDENT RESERVE.



Acknowledgements

In preparing the Special District Reserve Guidelines, the California Special Districts Association (CSDA) greatly benefited from individuals who were generous with their time and insightful with their views. Our task force consisted of finance staff and general managers from independent special districts, as well as professional financial consultants.

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The Formation of Special District Reserve Guidelines

Answering a
Call, Fulfilling
a Need

The genesis for CSDA's Special District Reserve Guidelines was a 2000 Little Hoover Commission report entitled, *"Special Districts: Relics of the Past or Resources for the Future?"* The report included a section on special district reserves with an introductory finding that stated: *"Hundreds of independent special districts have banked multi-million dollar reserves that are not well publicized and often not considered in regional or statewide infrastructure planning."*

The 2000 report raised a number of issues relating to special district reserves including:

- Lack of guidelines and consistency
- Lack of visibility and publication of district financial information
- Lack of understanding among constituents and policymakers of district finances
- Lack of districts incorporating reserve information into infrastructure planning

News media reacted to the Little Hoover Commission report with banner headlines claiming that "obscure" public agencies have "hoarded" billions in reserves. Legislative hearings on special district finances were held and interest was spiked among grand juries, leading them to investigate how special districts within their counties handle reserves.

Ultimately, the Little Hoover Commission recommended that guidelines for prudent reserves be established, and that investment policies and practices be reviewed to determine if additional oversight was warranted.



...many independent special districts already have established reserve policies and most, if not all, special district officials recognize their fiduciary responsibilities and take them seriously.

CSDA Reserve Guidelines Task Force

Although special district advocacy organizations disagreed with some of the Little Hoover Commission's findings and data interpretation, CSDA concurred that the establishment of reserve guidelines would assist special district governing officials and administrators in fulfilling their fiduciary responsibilities. To accomplish this, CSDA formed a task force in 2001 to identify both the essential elements of a reserve policy and the issues to be discussed during policy development.

The Special District Reserve Guidelines were developed by the task force as a tool for special district governing officials and administrators to assist them in fulfilling their commitment to provide cost-effective and efficient public services for the communities they serve.

Special District Reserve Guidelines

Second Edition

Today, with over a decade having passed since CSDA convened its original task force in 2001, many special districts have utilized the guidelines to evaluate their reserve policies, develop new reserve policies, and/or promote comprehensive and easily understood policies.

Through this decade-long process, special districts have gained new insights on improved best practices. Furthermore, certain accounting practices and terminologies have evolved. Therefore, in order to ensure the most accurate and updated guidelines, and in continuance of efforts to promulgate widespread adoption, CSDA commissioned a second task force in 2012 to produce a Special District Reserve Guidelines, Second Edition. CSDA encourages district officials to incorporate these new guideline elements into their policies, where applicable, based on size and services offered.

In developing and updating the second edition, the CSDA task force recognized that many independent special districts already have established reserve policies and most, if not all, special district officials recognize their fiduciary responsibilities and take them seriously. What may have generated most of the concern regarding special district reserves in 2000 is not lack of policy, but lack of outreach to constituents and others regarding district operations. It is essential that special districts continue to promote understanding outside their boardroom and perform outreach on district financial management to facilitate understanding among the public, media and legislators.



Introduction

Reserves are the foundation of the sustainable delivery of core services.

Importance of Maintaining a Reserve

Reserves are the foundation of the sustainable delivery of core services. Through prudent reserves, special districts offer taxpayers and ratepayers significant benefits including:

1. Savings to balance budgets
2. Emergency preparedness
3. Stable rates
4. Well-maintained infrastructure
5. Investment in the future

The fundamental question in maintaining a reserve is, how much is enough? In other words, when are reserves too low and when are they too high? These can be delicate questions because unwarranted reserves could undermine taxpayer and ratepayer support, while insufficient reserves could jeopardize the district's long-term sustainability.

There is also the question of where reserve funds should be spent. Pressure to expend reserves on making current services cheaper, rather than planning for the future, is all too frequent. Adopting a reserve policy will assist your agency in answering these fundamental questions.

Reasons for Adopting a Reserve Policy

In addition to the over-arching taxpayer and ratepayer benefits of reserves noted earlier, there are many specific reasons for a special district to adopt reserve policies:

Shared Vision:

A formally adopted policy promulgates a shared understanding of the proper level and use of reserves, which facilitates healthy working relationships.

Objectivity:

Revenue decisions represent some of the most controversial and difficult choices that governing boards must face. Utilizing reserve policies reduces political gamesmanship and promotes responsible long-term planning.

Fiscal Justification:

Inevitably, public agencies will face scrutiny over whether to raise or reduce rates, taxes or fees. Having reserve policies in place prior to such occasions serves as a valuable tool for both making and explaining difficult decisions.

Public Awareness:

Keeping the public informed about what you do is a fundamental responsibility for any public agency. They are the boss, after all, and all of us understand from personal experience that our jobs are a lot easier and a lot less stressful when the boss knows about and approves of what you are doing. Adopting a policy can help the district better communicate to the public the motives for adopting a reserve, as well as convey the reasons for maintaining the reserve at a certain level.



Important questions about reserves

The fundamental question in maintaining a reserve is, how much is enough? In other words, when are reserves too low and when are they too high? These can be delicate questions because unwarranted reserves could undermine taxpayer and ratepayer support, while insufficient reserves could jeopardize the district's long-term sustainability.



Prudent Accumulation and Management of Reserves: Developing Policy

Each special district should develop and adopt a reserve policy.

The Special District Reserve Guidelines reflect the common belief among special districts that there should be a clear and well-articulated rationale for the accumulation and management of reserve funds. Each special district should develop and adopt a reserve policy as a commitment to financial prudence and careful stewardship of community assets. It is critical to understand that a reserve fund is designated by a public agency to carry out specific purposes in a manner consistent with other financial policies, budgetary practices, district programs, and legal requirements.

Reserve Policy Objectives:

1. To provide adequate funding to meet the agency's short-term and long-term plans.
2. To minimize adverse annual and multi-year budgetary impacts from anticipated and unanticipated expenditures, thus minimizing the possibility of unplanned service fees or rate fluctuations.
3. To strengthen the financial stability of the agency against present and future uncertainties in an ever-changing environment.

Foundational Elements of a Reserve Policy:

Prior to developing a reserve policy, a district should first establish the three prerequisites below.

1. Clear, organizational philosophy/mission.
2. Policy-oriented board of directors, with long-term focus on fiscal sustainability.
3. Standardized method of financial reporting, such as Governmental Accounting Standards Board (GASB) Statement Nos. 34 and/or 54.

Communicating regularly about district financials and reserve priorities creates trust.

Principles for Developing a Reserve Policy:

1. Identify the uniqueness of the district.

- a. Consider district goals, needs and constraints.
- b. Utilize life-cycle analysis if district is capital intensive.
- c. Regularly measure condition of assets.

2. Form a complete understanding of the district's core business and significant cost drivers for district operations.

3. Engage in strategic planning.

- a. By developing, regularly evaluating and, when necessary, modifying strategic plans, districts can more efficiently plan and shape their futures. Strategic planning can help district boards anticipate and adapt to changing environmental, regulatory and demographic conditions. This assists districts in establishing appropriate reserve funds and adopting adequate target levels.
- b. Seek community input in the strategic planning process, i.e., ratepayers and taxpayers, business groups, community organizations, other public agencies serving the same constituency, etc.

4. Make communicating a priority.

- a. A regular newsletter and annual report are good starting points; it is critical for districts to reach out to the public and explain their financial position.
- b. Seek input through customer surveys, community meetings, and other meaningful engagement.
- c. Inform customers and constituents of output and seek their input in evaluating policies.

5. Recognize that a good reserve policy must be consistent with other financial policies, such as a balanced operating budget and investment policies.

6. Create and maintain a well-developed capital improvement plan.

7. Estimate the ebb and flow, or "seasonality," of cash-flow during the fiscal year and build a basic understanding of the degree of short-term borrowing necessary to meet such needs.

8. Clearly identify reserves—both categories and purposes. Set target levels for reserves that are consistent with the district's mission, the district's uniqueness and the philosophy of the district's board and community.

9. A broad reserve policy may include many elements or sub-policies. Some areas that may need sub-policies include:

- a. Rate-stabilization funds
- b. Fees and charges
- c. Debt issuance and management
- d. Deferred maintenance
- e. Level of unrestricted (contingency) funds
- f. Long-term repair and replacement



Every district has unique circumstances and a proper fund balance should be considered on a case-by-case basis.

Fund Balance and Net Position/Net Assets

There are many factors that must be considered when establishing an appropriate fund balance and ensuring the prudent management of your district's finances. Every district has unique circumstances and a proper fund balance should be considered on a case-by-case basis. Thoughtfully accounting for variables such as your district's revenue sources and income volatility will assist your district in determining its reserve amount. On the following pages are issues that should be considered when adopting a reserve level.



Specific Considerations for Budgeting and Allocating Fund Balance or Net Position/Net Assets

Considerations
<p>1. Define the special district’s fiscal objectives:</p> <ul style="list-style-type: none">a. Short-termb. Long-termc. Operatingd. Capital
<p>2. Identify where funds are used:</p> <ul style="list-style-type: none">a. Operating revenues are the general-purpose funds through which ongoing activities are funded.b. Special-purpose revenues often are legally restricted for a particular use. For example, a special assessment for infrastructure must be separately accounted for and spent on designated infrastructure costs.c. Debt proceeds should be used to fund costs that provide a benefit across fiscal years. The issuance of debt allows the district to allocate these costs by spreading the debt service to these periods. Debt proceeds should never be used for short-term operating costs because this would entail allocating current operating costs to future periods.d. One-time revenues should be used for one-time expenses. If a special district gets one-time revenues and uses it to provide additional full-time positions or to fund on-going operating costs, it may lead to a budget crisis when the one-time funding runs out.



One-time Revenue

According to the Government Finance Officers Association, “Examples of one-time revenue include: infrequent sales of government assets, bond refunding savings, infrequent revenues from development and grants. These revenue may be available for more than one year (e.g. , a three-year grant) but are expected to be non-recurring.”

One-time Expenditures

According to the Government Finance Officers Association, “Examples of expenditures which a government may wish to use one-time revenue include start up costs, stabilization (e.g. to cover expenditures that temporarily exceed revenues), early debt retirement, and capital purchases.”

Unassigned fund balance is typically the primary subject of a reserve policy. However, committed and assigned fund balance may also be thought of as part of a reserve policy as the governing board or management, respectively, has some control over the balances. Conversely, restricted fund balances or nonspendable fund balances are fundamentally constrained, making it unnecessary to place parameters on them through reserve policy in order to achieve prudent savings and expenditures of public resources.

It is recommended that every district establish policies regarding minimum fund balance and spending priorities in order to communicate to users the importance of a reserve for economic uncertainties, why it consists of amounts that are unassigned and that it is not available for spending.

Districts' policies should specify the order in which fund balances are spent when more than one amount is available for a specific purpose. Where such policies do not exist, GASB 54 prescribes that the default order in which these amounts should be spent is committed, assigned, and then unassigned.



GASB 54

According to the Governmental Accounting Standards Board, statement No. 54 was issued after, "...research revealed that the existing standards guiding fund balance reporting were being interpreted inconsistently by different governments. Consequently, the fund balance information reported by many governments also was inconsistent. It also became clear that the understandability of fund balance information was affected and that financial statement users were unable to readily interpret reported fund balance information."

GASB fact sheet about Fund Balance Reporting and Governmental Fund Type Definitions



Sample Policy Language

The "X" district maintains a minimum unassigned fund balance of not less than "X" percent of budgeted general fund expenditures and other financing uses as a reserve for economic uncertainties. The district believes a reserve of this level is prudent to maintain a high bond rating and to protect the district from the effects of fluctuations in property tax revenues to which special districts are vulnerable. Because amounts in the nonspendable, restricted, committed and assigned categories are subject to varying constraints on their use, the reserve for economic uncertainties consists of balances that are otherwise unassigned.

Reserve Level Targets

A reserve policy must set a target level of reserves to maintain. The target is typically defined in terms of unrestricted fund balance as a percentage of either regular operating revenues or regular operating expenditures. The choice between revenue and expenditures as a basis depends on which element is more predictable. A government that relies heavily on property taxes typically would choose revenues, whereas a government with a less predictable revenue portfolio might choose expenditures. In either case, the base should only reflect operating numbers and should remove the effect of unusual spikes or drops that would distort long-term trends.

With the basis of the target defined, the next step is to select a reserve-level target number. The Government Finance Officers Association (GFOA) offers guidance as to the amount of unassigned fund balance governments should maintain in their general fund operating revenues or regular general fund operating expenditures, regardless of size. As special-purpose governments, special districts should carefully balance such general advice with the unique circumstances associated with the district's operational environment.

In considering what constitutes adequate reserves, a special district may want to establish key benchmarks or ratios. Many industries have key equity target formulas or ratios that establish minimums to provide a red flag warning when equity may be too low. Some of those ratios may include the following:

- Debt to Equity
- Property Taxes to Equity
- Current Ratio
- Capital Outlay to Equity
- Capital Outlay to Operating Expenses

Certain districts may establish their own ratios based on the unique aspects of the district or an operating environment that may be different than other organizations in their industry.



Local Conditions as a Basis

The Government Finance Officers Association notes that fund balance is ultimately a local decision based on local conditions. "...Finance staff should analyze the risks that influence the need for maintaining reserves as a hedge against uncertainty and loss."

(p.57, GFOA, Financial Policies)

Articulating Financial Position and Decisions

Is this organization in good financial shape? That depends on the condition of the current assets and the short-term and long-term needs of the organization as they relate to its resources. If there exists significant current infrastructure needs, then financing may be required. Is enough set aside for contingencies? If water costs increase by 10 percent, or new environmental or health standards are issued, how will that affect total net assets?

Governmental entities collect, hold and expend resources in public trust. If too little is collected, they risk failing to meet mandated needs. If too much is collected, they overburden the public and tie up resources that taxpayers and ratepayers could use in the economy. Historically, governments have been known to spend most of their resources each year and too often fail to properly plan for long-term needs. Special districts should carefully examine their operations and budget to ensure that expenses, such as capital needs and contingencies, are anticipated and appropriate resources are set aside.

Some governments, either through good fortune or good planning, have reserved net assets for future plans and needs. What most governments have failed to do, as emphasized in the 2000 Little Hoover Commission's report, is to effectively communicate their plans for the net assets and explain why the balance is appropriate.

Each special district needs to:

1. Analyze its financial position.
2. Examine its current and long-term needs, including a capital improvement plan.
3. Establish its target fund balance or net assets.
4. Outline its goals and needs through policy, budgets and enhanced financial statement note disclosures.
5. Anticipate public scrutiny of financial statements and proactively communicate how finances are being used in a manner the public can easily digest.

It is recommended that special districts, at minimum, conduct a review of their reserve policy annually to ensure it meets the needs of the district and is in compliance with any requirements/standards that may have changed.

Conclusion

Each special district's financial and legal professionals should review reserve policies prior to adoption to ensure they are in compliance with all current laws and regulations. Reserve policy should be established based on each district's unique financial situation. Any reserve policy needs to be reviewed regularly as the financial environment within which it functions is dynamic and there may be applicable legislative or regulatory changes.

The 2000 Little Hoover Commission report concluded that there was a disconnect between special districts and their constituents and other local government entities. Therefore, it is important that each agency not only develop a reserve policy, but ensure that stakeholders know and understand the district's financial position and decision-making process.

Districts should consider preparation of a public outreach program to communicate financial and program information on a regular basis to affected or interested populations. How involved each respective public outreach program is for a district is typically determined by the size and complexity of the district. A first step may be as simple as adding the information to an agency's website or the development of an annual report. CSDA encourages districts to take the next step and proactively engage the public to ensure its awareness.

We hope you find these guidelines helpful and if you have any comments or suggestions on how we can improve this document, please contact us at 877.924.2732.



Addendum I: Glossary

Assigned Fund Balance: Amounts that are intended to be used by the special district for specific purposes but do not meet the criteria to be classified as restricted or committed.

Capital Improvement Program (CIP): A short-range plan that identifies capital projects and equipment purchases, provides a planning schedule and identifies options for financing the plan.

Committed Fund Balance: Amounts that can only be used for the specific purposes as determined by a formal action of the special district's highest level of decision-making authority.

Net assets: The amount of assets in excess of liabilities. For non-enterprise fund types, this excess is referred to as "fund balance." For enterprise-fund types, this excess is referred to as "net assets" or, as of July 1, 2012, "net position."

Nonspendable Fund Balance: Amounts that cannot be spent or where cash has been spent previously to produce a fund balance – for example, inventory, pre-paid expenses or restricted assets.

Pay-Go: Is the practice of financing expenditures with funds that are currently available rather than borrowed.

Restricted Fund Balance: Amounts that can only be spent for specific purposes which are stipulated outside the control of the special districts, such as the constitution, external resource providers (such as granting entities) or enabling legislation.

Unassigned Fund Balance: The residual of all other funds that are not nonspendable, restricted, committed or assigned. Unassigned balances are not in special revenue, capital projects, permanent or debt service funds unless the fund is in deficit.



Addendum II: Special District Reserves Talking Points

PRUDENT RESERVES MAKE FOR SOUND BUDGETING

For countless families, saving for a rainy day is common-sense. For special districts, reserve funds are not just money in a bank; they are fundamental resources for ensuring reliable core services and community security.

How Taxpayers and Ratepayers Benefit

Special districts designate money toward savings in order to balance their budget, respond to emergencies, keep rates affordable, maintain current infrastructure and plan for future public works projects.

- **Balancing Budgets** – Over the course of the fiscal year, short-term reserves help balance the ebb and flow of revenues verse expenditures.
- **Emergency Preparation** – In the event of a disaster, communities can't afford not to have savings readily available to quickly repair critical local infrastructure and bring core services back online.
- **Affordable Rates** – With appropriate savings, special districts are able to use resources wisely and smooth out the highs and the lows of volatile economic conditions, rather than spend their entire surplus and then seek new revenue or jeopardize services.
- **Infrastructure Maintenance** – Reserves mean the pipes are fixed, roofs are patched, and worn equipment is replaced without going back to the taxpayers or ratepayers to pay for routine upkeep.
- **Planning for the Future** – A long-term, thoughtful approach to public infrastructure requires the foresight to plan for, and discipline to save for, future needs.

Reserves are Much More than Liquid Assets

- What comprises a reserve fund? Reserve fund balances and net assets are not just cash and investments. They also include the net value of capital facilities, land and equipment measured from the very inception of the district.
- Assigned funds are budgeted for specific long-term public needs as planned by the board of directors.
- Committed funds are set aside via established policies for specific uses such as cash-flow, capital improvements, contingencies, and rate stabilization.
- Restricted funds are limited by legal or contractual requirements, or cannot otherwise be spent.

Best Practices for Sensible Budgets

- Historically, governmental agencies and departments have been known to spend everything they have before the end of the fiscal year in order to justify increased future allocations from their larger bureaucracy.
- Special districts are different because they empower core local service providers with budgetary control, encouraging efficiency and fiscal restraint rather than punishing it.
- The CSDA Reserve Guidelines Task Force identified both the essential elements of reserve policies and key issues to be discussed during reserve policy development to assist districts in fulfilling their commitment to provide cost-effective and efficient public services to their communities.



Addendum III: Capital Planning

A Capital Improvement Program (CIP), also referred to as a capital plan, exists to identify and prioritize a special district's need for capital goods. A CIP should prioritize the importance and timing of the various assets to be acquired. In addition, a CIP should contemplate how those goods will be paid for – cash (equity) or debt. A capital plan is a strategic and comprehensive plan for the acquisition and implementation of the district's capital assets over time. In that sense, it is different from a finance plan, which focuses on individual acquisitions and how to pay for them.

To fulfill their mission, every district makes capital investments. Debt, especially tax-exempt debt, is recognized as an important and continuing source of a district's capital to fund improvements necessary to achieve its mission and strategic objectives. A CIP provides the framework by which decisions will be made regarding the use of cash and debt to finance capital projects.

Debt is defined to include all short and long-term obligations, guarantees and instruments that have the effect of committing the district to future payments. The assumption of debt, both direct and indirect, is subject to the district's approval. Any debt issued by subsidiary entities is subject to these policies. In satisfying their fiduciary responsibilities, it is important that a district's board and management know the extent of debt obligations.

CIP Objectives

1. To provide guidelines to management on the use of reserves and debt to support a special district's capital needs while achieving the lowest overall cost of capital.
2. To provide selected financial measures, with specific targets, to ensure that the district continues to operate within appropriate financial parameters while allowing the agency to maintain financial stability and the highest acceptable credit rating that permits it to issue debt at favorable rates.
3. To bridge the cash flow gap between the district's available funds and its capital needs when the assumption of debt is deemed prudent.

Creating a Capital Plan

1. Establish goals
2. Assess needs
3. Determine pay-go or borrow
4. Identify methods available for funding
5. Design the loan—the tactical plan
6. Organize approach

Details on the following pages.

Establish Goals

The key elements in setting clear capital plan goals include:

- 1. Understanding the role of the planning horizon.*** Planning horizons are important considerations in well-developed capital plans. For example, it makes little sense to try to plan for a 10-year or 20-year horizon if innovation, technology, demographics or legislative threats to the plan occur frequently or on short notice. Conversely, agencies that are in low-technology businesses and stable demographic circumstances can more effectively and more appropriately plan for long periods. Planning horizons should mirror long-term repair and replacement requirements of existing facilities.
- 2. Integrating the use (or lack thereof) of reserves.*** The extent to which a particular district has accumulated reserves will dramatically impact the CIP. The development of, and adherence to, strong reserve policies can greatly simplify funding choices for a capital plan, but blind adherence to arbitrary reserve levels can be just as inhibiting as no reserves at all. The key is to make reserve accumulation, or depletion, work in harmony with the CIP, operating budget and risk management of the district.
- 3. Recognizing the repetitive nature of implementing the CIP.*** A capital plan is by its nature repetitive. For that reason, many districts choose to review and update it annually, usually as an adjunct to deliberation of the operating budget. This keeps the CIP current and tempered by present information on the priorities of the district.

Assess Needs

Every capital plan starts with a needs assessment. The assessment should be based on a comprehensive review of the agency's assets at the time an asset is recorded and an estimated useful life is assigned to each asset. This information later will be used as an indicator of when an asset is scheduled to be replaced. Estimated future replacement costs need to be obtained in order to reasonably estimate CIP fund requirements within an agency's long term financial plan.

Determining Pay-Go or Borrow

The "pay-go" method of using current revenues to pay for long-term infrastructure and other projects is often considered when sufficient revenues and reserves are available and long-term borrowing rates are higher than expected cash reserve fund earnings.

On the other side of the spectrum, the "pay-as-you-use" or "borrow" strategy limits the need for building of major amounts of equity in capital assets. Such accumulation can be less economically efficient, particularly for those districts that are capital intense and whose capital goods are "used up" over long periods of time. Similarly, financing of smaller capital goods, or those with short or uncertain useful lives, is also inefficient. The rationale behind the borrow approach is that the district's stakeholders should "pay" for the assets required to deliver the goods or services of the agency over a time period that more closely mirrors the useful life of those assets.

Most districts use a blended approach based on their debt management policy. Often, a district's approach is dictated as much by affordability as by philosophy, given that few public bodies are capable of paying cash for all capital assets.

Identify Methods Available for Financing

Once the goals have been set, the needs assessed and the decision whether to pay cash or finance the asset has been made, some thought must be given to the method of financing. For example, even if an asset is to be procured for cash, and the cash is on hand in a reserve set aside for that purpose, a decision still must be made on whether to replenish or restore that reserve, and over what time period and from what source it will be replenished.

Choosing to issue debt means that the following choices must be made: form of debt, mode (fixed or variable rate), repayment terms and method of sale. These are the tactical decisions that often blur the understanding of the strategic elements of the capital plan.

Design the Loan – The Tactical Plan

If a decision is made to borrow, an array of choices will follow. Some districts choose to borrow from banks or private lenders; others choose public offerings of debt. Lease financing may be considered as an alternate to bond financing. Some districts pool their needs with other similarly situated districts in order to reduce costs through economies of scale.

Regardless of the choice of lenders or approach matching the useful life of the financed asset to the borrowing term is an important consideration. Common sense tells us that we should hesitate to finance automobiles with 30-year bonds. By the same token, a water treatment plant with a design-life of 50 years can be safely and prudently financed over long periods of time. Still, debt issuances over 30 years are rare.

This element of the CIP should also carefully consider other needs within the strategic plan when pledging assets or revenues to lenders. A generous package to a lender on today's asset may make tomorrow's asset financing problematic or impossible. The key is to ensure that each tactical financing plan within the capital plan works harmoniously with other elements of the plan and is flexible enough to allow for the inherently changing nature of the CIP.

Organize the Approach

The successful capital planning process looks a great deal like the successful budgeting process. The end-result articulates the goals and objectives of the organization to all stakeholders and relies on an accurate and unbiased assessment of needs. It provides for an evaluation of the desired assets to distinguish between "wants" and "needs." It is written and shared with the district's stakeholders.

The capital plan is revisited often and provisions for changing or amending it are straightforward. Finally, it incorporates periodic analysis of results and achievements for management and the governing body.

Summary

A CIP need not be elaborate or weighty to be effective. Many effective capital plans consist of a single spreadsheet and several paragraphs of supporting text. The development of the program is vital to the efficient use of capital. It is a key ingredient in a lender's assessment of management's effectiveness and control. It is among the most important tools an elected official possesses to discharge the duties of office.

Readers who are interested in additional information about the development of capital plans should consider a variety of books, and other information sources, on the topic. Some suggested examples are shown in the attached resource listing at the back of this document.



Addendum IV: Resources

The Government Finance Officers Association (GFOA) is a great source for more information regarding various government financial matters, including fund balance and financial reporting. GFOA has an extensive publications department. View a list of its full offerings at www.gfoa.org. The following publications may be useful:

1. "An Elected Official's Guide to Financial Reporting"
2. "Best Practice – Replenishing Fund Balance in the General Fund"
3. "Governmental Accounting, Auditing, and Financial Reporting"
4. "Recommended Budget Practices: A Framework for Improved State and Local Government Budgeting"

The Governmental Accounting Standards Board (GASB) has a number of user guides written by the standard setter for use in many types of governments. These include:

1. *An Analyst's Guide to Government Financial Statements—revised, updated, and significantly expanded*
2. *What You Should Know about the Finances of Your Government's Business-Type Activities—a completely new guide for 2012*
3. *What You Should Know about Your Local Government's Finances*

In addition, in 2013, GASB is expecting to publish a guide directed at "Business-Type Activities." Most special districts in California are "Business-Type Activities."



CSDA

**California Special
Districts Association**

Districts Stronger Together

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CAPITOL ALERT OCTOBER 23, 2015 5:01 PM

Fire districts losing tax votes point finger at state fee

HIGHLIGHTS

About two-thirds of fire district tax measures have failed to pass

Local officials say a state fee has soured voters on local fire-related charges

Firefighters' union wants a "California disaster" surcharge instead



BY JIM MILLER

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Frank Treanor doesn't have exit polling to help explain why almost 38 percent of voters in the fire district he leads north of San Francisco voted against a November 2012 ballot measure to increase what property owners pay the district annually.

But Treanor, chief of the Rancho Adobe Fire Protection District, said he is sure of the reason: Most of the district falls within the vast swath of the state where property owners pay a state fire prevention fee, in addition to any local charges.

The 'no' vote was enough to deprive the Rancho Adobe measure of the two-thirds support it needed to pass, he said, and continue the district's financial stress.

"If you hadn't gotten a bill I think it would have been pretty easy to get that extra 4 percent," Treanor said.

In the four years since lawmakers approved it, a state fire prevention fee on properties in about a third of the state's rural areas had yielded more than \$300 million through June for prevention-related activities.

The money has gone to administration and statewide prevention, such as defensible space inspections and vegetation clearing, amid concern by some local officials that non-profit fire safe councils haven't received more money

At the same time, officials contend, the fee has had an unintended consequence: undermining local agencies' ability to raise their own money for fire protection and prevention efforts, even as the state's long drought has increased the fire risk.

31 million

Number of acres for which the state has the primary firefighting responsibility

Near Auburn, voters in August rejected a ballot measure to increase a special tax that benefits the Higgins Fire Protection District. It would have repealed a longtime \$25 parcel tax and replaced it with a fire protection tax that averaged about \$141 parcel.

Fifty-nine percent of voters supported the proposal, short of the necessary two-thirds and the second time in two years that a special fire tax had failed. Virtually all of the district is in the state responsibility area.

“The only misunderstanding that I heard was that people assumed the SRA fee goes to the fire district,” said Pete Marchinek, an engineer with the department, who talked with voters during the campaign.

The first state prevention bills started showing up in people’s mailboxes in summer 2012. Since June 2012, at least 32 local fire tax measures have been on the ballot. Of those, 21 failed, almost all of them in districts that include significant portions of responsibility area.

In the four years before the fee took effect, there were at least 35 fire district revenue measures. Of those, two dozen passed and 11 failed, according to election results compiled by the California Local Government Finance Almanac.

In other cases, officials said, the presence of the state fee has kept local officials from even trying to win over voters for a higher parcel tax.

Some officials had warned of a local impact when the state Board of Forestry and Fire Protection crafted regulations to impose the charge. The final rules included a \$35 discount for property owners covered by a local fire district. Today, the discounted rate of \$117.33 applies to about 98 percent of the more than 800,000 properties subject to the fee.

Cal Fire has not tracked the success rate of local measures since the state prevention fee took effect, department spokesman Daniel Berlant said.

“We recognize the important role fire districts play. From our standpoint there’s no intention to compete when it comes to funding sources,” Berlant said.

“

THEY DON'T HAVE OPTIONS

Michael Coleman, local government finance expert, on special districts' revenue-raising challenges.

Local districts seeking higher taxes have long faced the challenge of getting two-thirds support. Cities and counties can pass general-purpose tax measures on a majority vote, but fire districts and other special districts need to achieve super-majority backing.

Of the fire district tax and bond measures that failed since 2012, more than half received majority support.

“It’s big,” local finance expert Michael Coleman, who writes the local government finance almanac, said of the effect of the two-thirds threshold. “They don’t have options. They can’t do a majority-vote tax.”

In addition, Coleman said, most of the state area and overlapping local districts are in parts of California where voters are more conservative and skeptical of taxes to begin with. “These measures are often hard to pass anyway,” he said.

In the Rancho Adobe district, officials shuttered stations on a rotating basis following the defeat of Measure Z in November 2012. A grant from the nearby Graton Resort and Casino has helped balance the department’s books, he said, but represents only a short-term solution. “Personally, I don’t want to depend on that money,” Treanor said, adding that the district might put another measure on the ballot in 2016.

Republican lawmakers unanimously opposed the fee during the 2011 budget vote. Since then, there have been multiple attempts to eliminate the charge, mostly by GOP lawmakers who represent the bulk of the area subject to the charge. Some Democrats, though, also have expressed misgivings.

Earlier this year, Assemblyman Reggie Jones-Sawyer, D-Los Angeles, introduced a bill to repeal the fee and replace it with a disaster-response surcharge on residential and commercial insurance policies. The bill’s backers include firefighters unions concerned about the fee, in part because of concerns that it crowds out local tax measures to help pay for firefighters and equipment.

A disaster-response surcharge would raise money for efforts besides preventing wildfires, supporters say.

“California is disaster central,” said Carroll Wills, a spokesman for California Professional Firefighters, an umbrella group for unionized firefighters. “By limiting the (responsibility area) assessment to these areas, it puts an undue burden on those taxpayers and ignores the larger risk we face.

“We understand the fiscal circumstances that led to its introduction, but we think it should go away,” he said.

Jim Miller: 916-326-5521, @jimmiller2

THE PUBLIC EYE OCTOBER 3, 2015 5:01 PM

Millions of dollars in California fire prevention money goes unspent

HIGHLIGHTS

Fee generated more than \$300 million from 2011 through June

Grants denied despite large reserves

Critics question how some money is used



1 of 5



BY JIM MILLER

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Amid a drought that has created bone-dry conditions across much of California's wildland area, a state fire prevention account has ended recent fiscal years with tens of millions of dollars unspent.

The money has been generated by a contentious, four-year-old fee pushed through by Gov. Jerry Brown and legislative Democrats over the objections of Republicans and rural property owners. The state collected more than \$300 million through June and spent about \$260 million, including roughly \$228 million on administration and statewide prevention activities, vegetation clearing, defensible space inspections and other programs. About \$22 million went to a state tax agency to cover collection costs.

But as fires burned hundreds of thousands of acres this year, the state ended the fiscal year in June with an estimated \$43 million in fee money left over.

"We made a lot of people in the Legislature take a vote on this fee that they never really liked. But then to collect the money and just sit on it, and not deploy it in ways to help make those communities safer, is just silly," said Paul Mason, vice president of policy and incentives at Pacific Forest Trust, a forest protection group.

More than 800,000 property owners pay the fee, most of them \$117.33 a year for each habitable structure. Property owners in parts of the foothills east of Sacramento, as well as those in communities such as Shingle Springs, Georgetown and Pollock Pines, are subject to the charge.

The money is intended to support fire prevention activities in the almost one-third of California where the state has the primary firefighting responsibility. Nearly three-quarters of the 31 million-acre area – mostly privately owned watershed, rangeland and forested areas outside city limits – presents a very high or high fire risk.

In the devastating Valley and Butte fires, state responsibility lands made up more than 80 percent of the areas burned. As of Friday, the Valley fire in Lake County had burned more than 76,000 acres, and destroyed 1,958 homes and other structures. The Butte fire in the Sierra foothills had burned 71,000 acres and destroyed 475 homes. Authorities have confirmed the deaths of four people in the Valley fire and two in the Butte fire.

Statewide since January, more than 5,300 fires have torched almost 300,000 acres, according to the California Department of Forestry and Fire Protection. The toll would have been worse without activities and projects funded by the fire prevention fee, state officials said.

Yet officials said they have proceeded cautiously in spending the prevention fee money because they were not sure how much money the charge would bring in.

“WE DO WANT TO MAINTAIN A PRUDENT RESERVE FOR UNFORESEEN CIRCUMSTANCES.”

Department of Finance spokesman H.D. Palmer

“Given the fact that it’s a relatively new fund, there’s not a long track record on receipts. We do want to maintain a prudent reserve for unforeseen circumstances,” Department of Finance spokesman H.D. Palmer said.

The fund’s reserve, however, is much higher than that of the typical special fund. The fire fund began the current fiscal year with reserves totaling more than half of the prevention money the fee produced last year. By comparison, state special funds’ total reserves averaged about one-quarter of annual revenue in 2014-15. The state’s multibillion-dollar general fund ended June with reserves of just 3.5 percent.

State Sen. Jim Nielsen, R-Gerber, who sits on the budget subcommittee that oversees Cal Fire, rejected the idea that the fire fund’s large reserve reflects prudence.

“They’re hoarding it,” he said. “What for, I don’t know.”

Some have suggested the state may have one eye on the courts, where it is fighting a lawsuit filed by critics who contend the fee is an illegal tax.

In August, a Sacramento County judge elevated the case to class-action status, and a trial date is expected next year. If the state ultimately loses, the fee revenue would disappear and the state would face refunding an estimated 12,000 property owners eligible for the class.

Refunding five years of fees to landowners who filed a required protest would cost more than \$7 million. Nevada County Supervisor Hank Weston, echoing a common belief, said he thinks the large balance in the fire prevention fund reflects officials’ concern the state will lose the case.

Palmer rejected that notion. “If we budgeted on the assumption we’re going to lose every lawsuit, fiscal planning for the state would come to a screeching halt,” he said.

LAWMAKERS APPROVED ABX1 29 IN JUNE 2011, CREATING A NEW STATE RESPONSIBILITY AREA FIRE PREVENTION FUND.

The fee has proven to be more costly than usual to collect. About 10 percent of people initially do not pay the charge, said former lawmaker George Runner, a member of the state Board of Equalization, which spent \$8.9 million of the fee money in the last budget year to collect the fee. The typical noncompliance rate is about 3 percent, he said.

“It really gets expensive for us when we have to chase after such a low amount,” Runner said.

Lawmakers approved the fee in June 2011, during the recession, as a way to help prevent budget cuts to Cal Fire. The fee was fair, some supporters said, because more people living in rural areas raised the state’s firefighting costs.

Elected officials soon began raising concerns about the unspent balances.

“I just don’t want money sitting there when there’s a lot of prevention to be had and an increase in the number of fires,” then-Senate President Pro Tem Darrell Steinberg, D-Sacramento, who voted for the fee, said early last year, when fires were burning around the state. “You spend the reserves during the most crucial times.”

Weston, a former Cal Fire unit chief who pays the fire prevention charge, said there’s no excuse for all of the unspent money in the fund.

“Statewide, they’re collecting \$75 million (a year), during one of the worst droughts, in one of worst fire seasons, and the best thing would have been to add a bunch of inspectors. They didn’t do that,” Weston said.

“I guarantee you that the biggest bang for your buck is you do prevention. It’s not glorious. (Fighting fires) looks good on the news,” he said. “But who knows? They could reduce the threat to some homes.”

“

THEY’RE HOARDING IT.

State Sen. Jim Nielsen, R-Gerber

In the last budget year, nearly 150 local fire prevention councils as well as other applicants competed for fee-funded grants to clear brush, remove trees and other projects.

Organizations in Weston’s county and elsewhere applied for the money, but demand far exceeded the \$9.5 million the state set aside for the purpose. Among the projects losing out were proposals by the Fire Safe Council of Nevada County to remove flammable vegetation and dead trees from around the homes of low-income senior citizens and disabled residents.

Organizations awarded local grants included fire safe councils in Lake County, which received approval in mid-March for \$188,000 worth of projects to create a second evacuation route from Anderson Springs and clear vegetation in the Cobb area. The money recently became available, in the midst of the fire season, and the work had not been started before the Valley fire roared through those areas.

“It was money we wouldn’t have gotten any other way. We were just thrilled with what we were going to be able to do,” said Liz Black of the South Lake Fire Safe Council, who lives in the Jerusalem Valley and has been evacuated four times this year. “At this point I don’t know what’s going to happen” with the money.

The state cut the money available for local assistance grants this year, allocating \$5 million – one-half of last year’s total. Instead, the state gave \$5 million more to another department, the California Conservation Corps, which has handled some fire prevention activities in the past.

Other questions have surfaced about how the state uses the money.

This year, the administration proposed spending fee revenue to help carry out a new law meant to help protect Native American cultural resources during the environmental review process. It argued that the law affects Cal Fire’s plans for vegetation management.

Cal Fire “should not propose funding from fire prevention funds for CEQA archeological and cultural requirements,” a Senate committee report advised. The final budget paid for the law from another source.

The Legislature has allowed Cal Fire to use fee revenue to pay for litigation to recover money from people who accidentally start fires. Pursuing the cases, officials said, encourages people to be more careful and prevent fires in the state responsibility area.

Legislative attorneys, though, have warned that using the money that way likely runs afoul of Proposition 26, the 2010 voter-approved law which requires that any fee provide a direct benefit to the person paying it. Any money recovered goes into the state’s general fund, where it can be used for any purpose.

“Civil cost recovery is all about one thing – it’s about getting more money for government. That’s what the goal of the fire tax has been from the beginning,” Nielsen said. “It’s got nothing to do with prevention.”

31 million

Number of acres in the state responsibility area, almost one-third of California

Plaintiffs in the lawsuit trying to overturn the charge say such spending proves their point. They contend the fee is really a tax that should have required a two-thirds vote of the Legislature, not the fee bill that passed on a majority vote.

Tim Biddle, an attorney for the Howard Jarvis Taxpayers Association, one of the plaintiffs in the case, acknowledges the fee likely is paying for some brush clearing or inspections that directly benefit the people who pay it.

But hundreds of thousands of fee-payers are not receiving such services, he said, while fee money has helped pay for such work as post-fire data analysis and public education campaigns that offer no direct benefit to state responsibility area property owners.

“If you look at how the fee has actually been expended ... it clearly looks like it is being spent on services and programs that benefit the general public, not the payers,” he said.

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