

A SUMMARY OF VARIOUS SPECIAL DISTRICT DEFINITIONS IN CALIFORNIA CODES

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Summary

This report documents the various sections of State law that provide a definition for “special districts.” The objective of this paper is to identify how LAFCo and other agencies use the term, and how it may differ from LAFCo’s definition.

The term “special districts” is define three different ways under the following code sections: Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code (Executive Departments, Constitutional Officers, Controller), Revenue and Tax Code, California Coastal Act of 1976, and the Political Reform Act of 1974.

In terms of LAFCo, special districts are classified into three categories: independent special districts, dependent special districts, and inactive districts. Special district elections can be conducted in two ways, either by landowner vote or registered voter district.

LAFCo Definition

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code (“GC”) sec. 56301 “CKH”) establishes LAFCos to act in:

...discouraging urban sprawl, preserving open-space and prime agricultural lands, encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities. When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.

CKH defines “district” and “special district” in GC section 56036:

(a) “District” or “special district” are synonymous and mean an agency of the state, formed pursuant to general law or special act, for the local performance of

governmental or proprietary functions within limited boundaries and in areas outside district boundaries when authorized by the commission pursuant to Section 56133.

(b) "District" or "special district" includes a county service area, but excludes all of the following:

- 1) The state.
- 2) A county.
- 3) A city.
- 4) A school district or a community college district.
- 5) An assessment district or special assessment district.
- 6) An improvement district.
- 7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5).
- 8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.
- 9) An air pollution control district or an air quality maintenance district.
- 10) A zone of any special district.

CKH then categorizes "special district" into three major categories; the first two recognize the origin of the districts' legislative bodies, the third category was established to recognize the lack of activity of the district in order to truncate the dissolution process to extinguish the district.

GC section 56044 defines **independent district** and **independent special districts** as:

...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, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. Independent special district does not include any district excluded from the definition of district contained in Sections 56036 and 56036.6.

GC section 56032.5 defines **dependent special district** and **dependent districts**:

...any special district that has a legislative body that consists, in whole or part, of ex officio members who are officers of a county or another local agency, or who are appointees of those officers, and who are not appointed to fixed terms. Dependent special districts do not include any district excluded from the definition of district contained in Section 56036 and 56036.6.

With the recent 2018 passage of Senate Bill 448, CKH was amended to include a definition for **inactive districts**. GC section 56042 defines inactive districts as a special district that meets all of the following:

- (a) The special district is as defined in Section 56036.
- (b) The special district has had no financial transactions in the previous fiscal year.
- (c) The special district has no assets and liabilities.

- (d) The special district has no outstanding debts, judgments, litigation, contracts, liens, or claims.

In the event that all of these criteria are present, a LAFCo is authorized by CKH GC sec. 56879 to initiate district dissolution and dissolve inactive districts. Dissolution is not subject by government code to any of the following:

- ...(1) Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57176), inclusive, of Part 4.
- (2) Determinations pursuant to subdivision (b) of Section 56881.
- (3) Requirements for commission-initiated changes of organization described in paragraph (3) of subdivision (a) of Section 56375.

With respect to voting, a special district can be a **landowner district** or a **registered voter district**. GC section 56050 defines landowner-voter district to mean,

a district whose principal act provides that owners of land within the district are entitled to vote upon the election of district officers, the incurring of bonded indebtedness, or any other district matter.

In contrast, GC section 56072 defines a registered-voter district to mean,

a district whose principal act provides that registered voters residing within the district are entitled to vote for the election of district officers, incurring of bonded indebtedness, or any other district matter.

State Controller's Definition

The State Controller is responsible to compile, publish, and make publicly available annual financial transactions of each county, city, and special district.¹ For annual financial reporting, GC Section 12463 (d) provides a definition for "special districts" in terms of agencies required to file annual financial transaction reports.

GC section 12463 (d) states:

As used in this section, the following terms have the following meanings:

- (1) "School district" means a school district as defined in Section 80 of the Education Code.
- (2) "Special district" means any of the following:
 - (A) A special district as defined in **Section 95 of the Revenue and Taxation Code**.
 - (B) A commission provided for by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.
 - (C) A nonprofit corporation that is any of the following:
 - (i) Was formed in accordance with the provisions of a joint powers agreement to carry out functions specified in the agreement.
 - (ii) Issued bonds, the interest on which is exempt from federal income taxes, for the purpose of purchasing land as a site for, or purchasing or constructing, a

¹ GC sec. 12463(b).

building, stadium, or other facility, that is subject to a lease or agreement with a local public entity.
(iii) Is wholly owned by a public agency.

Revenue and Tax Code

Revenue and Taxation code (RT) determines statutes related to monetary concerns. Revenue and Taxation code defines Special Districts in two different ways, with both definitions focusing on the property tax area which defines the special districts. RT section 95 and 2215 expand on the concept of a special district. For tax collection purposes, various geographic boundaries are constructed to streamline the operation of different code sections.

RT section 95 (3) (m), presents a third definition for “special districts.” Section 95 defines the term, while including two additional entities that will also be counted as part of a special district in order to reflect accurate tax collection boundaries.

RT section 95(m) defines a special district as,

any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. “Special district” includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area. “Special district” includes the Bay Area Air Quality Management District. “Special district” does not include a city, a county, a school district, or a community college district. “Special district” does not include any agency that is not authorized by statute to levy a property tax rate. However, any special district authorized to levy a property tax by the statute under which the district was formed shall be considered a special district. Additionally, a county free library established pursuant to Article 1 (commencing with Section 19100) of Chapter 6 of Part 11 of Division 1 of Title 1 of the Education Code, and for which a property tax was levied in the 1977–78 fiscal year, shall be considered a special district.

Within another section of the Revenue and Tax Code, a second slightly different definition exists which details authorizations that must be present in order to get an agency classified as a special district.

RT section 2215 states,

a special district means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. A special district includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area. A special district does not include a city, county, a school district or a community college district. A special district does not include any agency which is not

authorized by statute to levy a property tax rate or receive an allocation of property tax revenues. However, for the purpose of the allocation of property taxes pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and notwithstanding Section 2237, any special district authorized to levy a property tax or receive an allocation of property tax by the statute under which the district was formed shall be considered a special district.

Other Definitions

Two additional definitions for special district are presented in the California Coastal Act of 1976 and the Political Reform Act of 1974.

The California Coastal Commission law, Public Resources Code section 30118 defines “special district” to mean,

any public agency, other than a local government as defined in this chapter, formed pursuant to general law or special act for the local performance of governmental or proprietary functions within limited boundaries. Special district includes, but is not limited to, a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area.

The Political Reform Act of 1974 GC section 82048.5 defines a “special district” to mean,

any agency of the state established for the local performance of governmental or proprietary functions within limited boundaries. Special district includes a county service area, a maintenance district or area, an improvement district or zone, an air pollution control district or a redevelopment agency. Special district shall not include a city, county, city and county, or school district.

Conclusion

Special districts may be described differently according to the various contexts they exist within and their relation to the purpose of the code. It is important to consider the context under which you will address special districts in order to correctly understand its role in codified law. There are subtle differences between the various definitions of a special district. However, most refer to special districts through their ability to wield a property tax. The small differences may appear unimportant but they remain significant to the operations of the code within question. This document should be visited regularly as a guide when attempting to properly consider the meaning of a special district.