

# Heber Public Utility District BOARD OF DIRECTORS

**MEETING DATE:** September 16, 2021

**FROM:** Laura Fischer, General Manager

**SUBJECT:** Special District Representation on LAFCO and the Associated Annual Cost.

**ISSUE:**

Shall the Board of Directors continue to negotiate a cost share proposal so that Special Districts can have seats on LAFCO Board?

**GENERAL MANAGER’S RECOMMENDATION:**

It is recommended that HPUD continue to negotiate to ensure Special Districts secure seats on LAFCO Board.

**FISCAL IMPACT:** Included in the FY 2021-22 budget is \$5,000, which is split across all budgets according to HPUD’s administration cost allocation.

HPUD Budget for LAFCO	
Parks	800
Water	2,000
Sewer	2,000
Trash	200
<b>TOTAL</b>	<b>5,000</b>

**BACKUP:**

In March 2018, Board President, Mr. Nolasco, and I attended a meeting with LAFCO and other Special District representatives. At that meeting we were told that with a simple affirmative vote from local Special District’s representatives, then Special Districts will have two seats on the LAFCO Board. The cost share formula to have a seat on the LAFCO Board was discussed. When we left the meeting, we understood that since IID is a Special District and their revenues are much greater than any other Special District in the area, they would pay the greatest share of the Special District’s portion of LAFCO’s total budget.

In 2018 during negotiations, IID stated they would only pay 50% of 1/3 of the total LAFCO Budget of \$700,005. The cost share table is below.

SPECIAL DISTRICTS	PRO-RATED COST
Imperial Irrigation District	116,668
Pioneers Memorial Healthcare District	0
Heber Public Utility District	32,333
Salton Community Services District	21,254
Bard Water District	17,193
Heffernan Memorial Healthcare District	11,060
Central Valley Cemetery District	10,974
Niland Sanitary District (Imperial)	7,666
Seeley County Water District	6,995
Riverview Cemetery District	4,630
Winterhaven Water District	2,914
Palo Verde County Water District	1,272
Bombay Beach Community Service District	351
Bard Resource Conservation District	28
Winterhaven Fire Protection District (Dissolved)	0
Brawley County Water District (Dependent)	0
<b>TOTAL SPECIAL DISTRICT SHARE OF BUDGET</b>	<b>\$ 233,335</b>

As you can see, the cost that HPDU would have to bear was \$32,333 per year. This is a huge amount for our District and we did not agree to this cost, as it is out of proportion for a community of our size. For example, a city like Holtville that has about the same population, pays \$4,000 per year. Keep in mind that this is not a one time cost, it will be reoccurring every year and will most likely increase every year. The formula that is used to determine the cost share isn't changed easily.

Shortly after it was determined that Special Districts did not agree to joining LAFCO with IID paying 50%, the IID Board voted to pay a specific amount of the total cost. Again, HPUD and other Special Districts did not agree as the increase in the LAFCO budget would fall upon the 12 small Special Districts and IID's contribution would not change.

After Special Districts again did not approve joining LAFCO with the IID's proposal, the talks were tabled for a couple of years.

Recently the IID has expressed desire to join LAFCO and has once again opened discussions with Special Districts. I have been providing you with email updates after our meetings. I have attached these emails for your consideration.

Should the vote of Special District representatives (50% plus 1) vote in favor of having seats on the LAFCO Board, the IID would be guaranteed one seat on the Board. The remaining seat would be filled via a majority vote of Special Districts. It could be possible for IID to secure two seats if they receive the majority votes from remaining Special Districts. However, every year they would have one seat secured.

During all of the meetings with Special Districts, I have told the assembled Special Districts that HPUD's board authorized the expenditure of \$5,000 as a shared cost to join LAFCO. I did not support any of the IID's proposals to share a set percentage of the cost that would result in HPUD paying more than our budget.

During the last meeting of Special Districts, the IID stated that they would take a proposal to their Board that IID would pay 90% of the total cost. I did not support that proposal as it is not equitable and would result in HPUD paying a greater amount than our budget.

At the IID Board meeting on September 7th, I presented the following information in written form to the IID Board. I had just stepped out of the meeting, when President Hanks moved the item forward on the agenda. As I was not able to get back to the meeting, I called in over the phone and presented the information included in ATTACHMENT A.

Director Hamby was not pleased with my presentation, however he moved his position from IID paying 90% to a proposal that IID pay 92.5% of the Special District's cost share. This motion passed 3-1 with 1 absent.

Immediately after the meeting, Director Hamby sent a couple of emails to IID staff and management, two HPUD Board members, and staff. IID Director Hamby stated he has pulled his proposed IID Local Entity funding in the amount of \$5,000. Additionally, he stated that Director Gonzalez has pulled his proposed IID Local Entity funding in the amount of \$5,000. These emails are attached for your consideration.

**DISCUSSION:**

At this time, HPUD needs to determine if they are willing to continue negotiations on the cost to join LAFCO, and if they are still in favor of joining LAFCO.

With the IID's agreement to pay 92.5% the remaining share is as follows:

<b>SPECIAL DISTRICT'S CONTRIBUTION WITH IID PAYING</b>	<b>92.5%</b>	contribution as a % of gross revenue
<b>Imperial Irrigation District</b>	<b>210,668</b>	0.03%
<b>Pioneers Memorial Healthcare District</b>	<b>0</b>	0.00%
<b>Heber Public Utility District</b>	<b>5,202</b>	0.13%
<b>Salton Community Services District</b>	<b>2,951</b>	0.13%
<b>Bard Water District</b>	<b>2,946</b>	0.13%
<b>Central Valley Cemetery District</b>	<b>1,995</b>	0.13%
<b>Heffernan Memorial Healthcare District</b>	<b>1,281</b>	0.13%
<b>Seeley County Water District</b>	<b>1,213</b>	0.13%
<b>Riverview Cemetery District</b>	<b>801</b>	0.13%
<b>Winterhaven Water District</b>	<b>377</b>	0.13%
<b>Palo Verde County Water District</b>	<b>236</b>	0.13%
<b>Bombay Beach Community Service District</b>	<b>59</b>	0.13%
<b>Niland Sanitary District (Imperial)</b>	<b>17</b>	0.13%
<b>Bard Resource Conservation District</b>	<b>5</b>	0.13%
	<b>\$ 227,750</b>	

I have attached the information provided by LAFCO which includes the CSDA white paper on Special District Representation on LAFCO.

I did not put this item on the agenda for action as we are not at the point to officially vote to join LAFCO. I just need direction. I need to know if we have an interest in joining LAFCO, and if we want to accept the IID's proposal to pay 92.5% of the cost.

Respectfully Submitted,

Laura Fischer, General Manager

Attachment: HPUD Board report dated April 19, 2018  
Emails from IID Director Hamby

**LAFCO TOTAL BUDGET** \$ **683,249**  
**SPECIAL DISTRICT'S SHARE** \$ **227,750**

SPECIAL DISTRICTS	IID PAYS 90%	CONTRIBUTION AS PERCENT OF TOTAL BUDGET	NOTES
Imperial Irrigation District	204,975	0.032%	IID PAYS ONLY <b>.032</b> PERCENT AND ALL OTHER SPECIAL DISTRICTS PAY <b>.174</b> PERCENT OF OUR TOTAL BUDGET.  .174 LESS .032 = .032  SMALL SPECIAL DISTRICTS PAY TWICE THE PERCENT OF OUR BUDGET THAN IID. WHY SHOULD SMALL SPECIAL DISTRICTS PAY MORE THAN THE LARGEST SPECIAL DISTRICT? WHY SHOULD IID GET A GUARANTEED SEAT WHILE PAYING LESS OF THEIR TOTAL BUDGET?
Pioneers Memorial Healthcare District	-	0.000%	
Heber Public Utility District	6,936	0.174%	
Salton Community Services District	3,934	0.174%	
Bard Water District	3,927	0.174%	
Central Valley Cemetery District	2,660	0.174%	
Heffernan Memorial Healthcare District	1,707	0.174%	
Seeley County Water District	1,617	0.174%	
Riverview Cemetery District	1,068	0.174%	
Winterhaven Water District	503	0.174%	
Palo Verde County Water District	315	0.174%	
Bombay Beach Community Service District	79	0.174%	
Niland Sanitary District (Imperial)	22	0.174%	
Bard Resource Conservation District	7	0.174%	
<b>TOTAL</b>	<b>227,750</b>		

SPECIAL DISTRICTS	IID PAYS 95%	CONTRIBUTION AS PERCENT OF TOTAL BUDGET	NOTES
Imperial Irrigation District	216,362	0.034%	IID PAYS ONLY <b>.034</b> PERCENT AND ALL OTHER SPECIAL DISTRICTS PAY <b>.087%</b> PERCENT OF OUR TOTAL BUDGET.  .087 LESS .034 = .053  SMALL SPECIAL DISTRICTS PAY A LARGER PERCENT OF OUR BUDGET THAN IID. WHY SHOULD SMALL SPECIAL DISTRICTS PAY A LARGER PERCENTAGE THAN THE LARGEST SPECIAL DISTRICT? WHY SHOULD IID GET A GUARANTEED SEAT WHILE PAYING LESS OF THEIR TOTAL BUDGET?
Pioneers Memorial Healthcare District	-	0.000%	
Heber Public Utility District	3,468	0.087%	
Salton Community Services District	1,967	0.087%	
Bard Water District	1,964	0.087%	
Central Valley Cemetery District	1,330	0.087%	
Heffernan Memorial Healthcare District	854	0.087%	
Seeley County Water District	809	0.087%	
Riverview Cemetery District	534	0.087%	
Winterhaven Water District	251	0.087%	
Palo Verde County Water District	157	0.087%	
Bombay Beach Community Service District	39	0.087%	
Niland Sanitary District (Imperial)	11	0.087%	
Bard Resource Conservation District	3	0.087%	
<b>TOTAL</b>	<b>227,750</b>		

SPECIAL DISTRICTS	EACH SPECIAL DISTRICT PAYS PROPORTIONATE SHARE OF TOTAL		NOTES
Imperial Irrigation District	223,207	0.035%	ALL SPECIAL DISTRICTS PAY THE SAME PERCENT OF OUR TOTAL BUDGET TOWARDS THE LAFCO APPORTIONMENT.  EACH SPECIAL DISTRICT PAYS .035% OF OUR TOTAL BUDGET.
Pioneers Memorial Healthcare District	-	0.035%	
Heber Public Utility District	1,384	0.035%	
Salton Community Services District	785	0.035%	
Bard Water District	783	0.035%	
Central Valley Cemetery District	531	0.035%	
Heffernan Memorial Healthcare District	341	0.035%	
Seeley County Water District	323	0.035%	
Riverview Cemetery District	213	0.035%	
Winterhaven Water District	100	0.035%	
Palo Verde County Water District	63	0.035%	
Bombay Beach Community Service District	16	0.035%	
Niland Sanitary District (Imperial)	4	0.035%	
Bard Resource Conservation District	1	0.035%	
<b>TOTAL</b>	<b>227,749</b>		

**From:** [Hamby, JB](#)  
**To:** [Shields, Tina L](#)  
**Cc:** [L Fischer](#); [Topete, Angelita](#); [T Sandoval](#); [M Cardenas](#); [Pacheco, Mike](#)  
**Subject:** Re: HPUD — IID Local Entity Funding  
**Date:** Tuesday, September 7, 2021 6:48:10 PM

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My \$5,000 of funds withdrawn from HPUD will instead be designated for Seeley County Water District's Bates Memorial Park project. I'll provide the details regarding the means through another accounting swap through Director Gonzalez.

Seeley County Water District is a small district serving a severely disadvantaged community with very limited funds whose general manager has expressed great appreciation for IID's partnership and funding commitments on a number of levels.

A little appreciation goes a long way — certainly more than offensive comments, regressive bargaining, and ungrateful demands as witnessed today.

In communication as well with Director Gonzalez regarding the withdrawal of his matching funds for HPUD and redesignation for another entity in need to better serve the Heber community instead.

With gratitude,

JB

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**JB Hamby**  
*Vice President, Board of Directors*  
Imperial Irrigation District  
**Mobile:** (760) 790-7153  
**Email:** [jbhamby@iid.com](mailto:jbhamby@iid.com)  
333 E. Barioni Boulevard  
P.O. Box 937  
Imperial, CA 92251

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**From:** JB Hamby <[jbhamby@IID.com](mailto:jbhamby@IID.com)>  
**Date:** Tuesday, September 7, 2021 at 4:43 PM  
**To:** Tina Shields <[tlshields@IID.com](mailto:tlshields@IID.com)>  
**Cc:** Heber Public Utility District <[lfischer@heber.ca.gov](mailto:lfischer@heber.ca.gov)>, Angelita Topete <[ATopete@IID.com](mailto:ATopete@IID.com)>, "tsandoval@heber.ca.gov" <[tsandoval@heber.ca.gov](mailto:tsandoval@heber.ca.gov)>, "mcardenas@heber.ca.gov" <[mcardenas@heber.ca.gov](mailto:mcardenas@heber.ca.gov)>, Michael Pacheco <[MAPacheco@IID.com](mailto:MAPacheco@IID.com)>  
**Subject:** HPUD — IID Local Entity Funding

Tina,

Please remove HPUD from the Local Entity final disbursement for Division 2.

I will be identifying another entity in Heber more appreciative of IID's substantial and ongoing contributions to the Heber community than HPUD management at present and will be back to you shortly.

With gratitude,

**JB Hamby**

Vice President, Board of Directors

Imperial Irrigation District

(760) 790-7153

[jbhamby@iid.com](mailto:jbhamby@iid.com)

# **What is the Local Agency Formation Commission of Imperial County?**

LAFCo is an intra-local independent agency that was created by state legislation to ensure that changes in governmental organization occur in a manner which provides efficient and quality services and preserves open space land resources. The Legislature has charged Imperial LAFCo with carrying out changes in governmental organization to promote specified legislative policies now codified in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The Cortese-Knox-Hertzberg Act commences with Section 56000 of the Government Code.

The creation of LAFCo was a legislative response to actions by local jurisdictions in the 1940's and 1950's. These agencies incorporated or annexed large, irregular portions of land in a manner which resulted in irrational urban boundaries and isolated populations without efficient services or with no services at all. In 1963, the Legislature established a Local Agency Formation Commission in each county and delegated to them its regulatory authority over local agency boundary changes.

Additional legislation in the 1960's extended LAFCo's authority. In the 1970's the Legislature recognized the connection between decisions concerning governmental organization and the issues of urban sprawl and loss of prime agricultural land. In response to these concerns, LAFCos were charged with implementing changes in governmental organization in a manner which would preserve agricultural and open space land resources and provide for efficient delivery of services. Concerned that LAFCos were responding reactively without considering long-term regional issues, in 1972 the Legislature began requiring LAFCo to adopt a sphere of influence for each agency in its jurisdiction. The sphere is the physical boundary and service area each local government agency is expected to serve and each proposal the Commission considers must be consistent with the sphere plan. The Legislature and the courts require LAFCos to implement the California Environmental Quality Act (CEQA) as it applies to LAFCo actions.

In 1985, the Cortese-Knox Local Government Reorganization Act consolidated all statutes relative to local government changes of organization. Later, in 1997, the Legislature assembled a Commission on Local Governance in the 21<sup>st</sup> Century to examine governance issues with special attention to the Local Government Reorganization Act.

Many of the Commission on Local Governance's recommendations were incorporated into the Cortese Knox Hertzberg Local Government Reorganization Act, which was adopted by the Legislature in 2000, and became effective in 2001.

LAFCo has the specific authority to review and approve or disapprove:

- Annexations to, or detachments from, cities or districts.
- Formation or dissolution of districts.
- Incorporation or disincorporation of cities.
- Consolidation or reorganization of cities or districts.

- The establishment of a subsidiary district(s).
- The development of, and amendments to, Spheres of Influence.
- Extensions of service beyond an agency's jurisdictional boundaries.
- Provision of new or different services by districts.
- Pursuant to Section 56434, the Commission may review and approve proposals that extend service into previously unserved territory in unincorporated areas.
- LAFCo is now empowered to initiate and conduct Municipal Service Reviews for services within its jurisdiction.

The State Legislature recognized the validity of the findings of the Commission on Local Governance for the 21<sup>st</sup> Century and codified a tool that could be used to collect information and evaluate service provision from a broader perspective. The tool for conducting service reviews is provided in Section 56430 of Government Code. Section 56430 requires "that in order to prepare and to update Spheres of Influence in accordance with section 56425 of the LAFCo law; LAFCos are required to conduct a service review of the municipal services provided in the county or other appropriate designated area. LAFCos must include in the area designated for service review the county, the region, the sub-region, or other geographic area as is appropriate for an analysis of the service or services to be reviewed and, as noted previously, must prepare a written statement of its determination with respect to each of the following (as modified in 2007 and effective 1 January 2008):

- (1) Growth and population projections for the affected area.
- (2) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
- (3) Financial ability of agencies to provide services.
- (4) Status of, and opportunities for, shared facilities.
- (5) Accountability for community service needs, including governmental structure and operational efficiencies.
- (6) Any other matter related to effective or efficient service delivery, as required by commission policy.

In addition to LAFCo's regulatory responsibilities, LAFCo of Imperial County considers that an important part of its role is to encourage communication and collaborative planning and studies between public agencies.



# Heber Public Utility District BOARD OF DIRECTORS

**MEETING DATE:** April 19, 2018

**FROM:** Laura Fischer, General Manager

**SUBJECT:** Information Only: Special District Representation on LAFCO.

**INFORMATION ONLY:**

In March, Board President, Mr. Nolasco, and I attended a meeting with LAFCO and other Special District representatives. At that meeting we were told that with a simple affirmative vote from local Special District's representatives, then Special Districts will have two seats on the LAFCO Board. The cost share formula to have a seat on the LAFCO Board was discussed. When we left the meeting, we understood that since IID is a Special District and their revenues are much greater than any other Special District in the area, they would pay the greatest share of the Special District's portion of LAFCO's total budget.

Since that time, new information regarding the cost share method has been revealed. According to State law, one Special District can only pay a maximum of 50% of the total cost for Special Districts. This means that IID can only pay 50% of 1/3 of the total LAFCO Budget of \$700,005. The cost share table is below.

SPECIAL DISTRICTS	PRO-RATED COST
Imperial Irrigation District	116,668
Pioneers Memorial Healthcare District	0
Heber Public Utility District	32,333
Salton Community Services District	21,254
Bard Water District	17,193
Heffernan Memorial Healthcare District	11,060
Central Valley Cemetery District	10,974
Niland Sanitary District (Imperial)	7,666
Seeley County Water District	6,995
Riverview Cemetery District	4,630
Winterhaven Water District	2,914
Palo Verde County Water District	1,272
Bombay Beach Community Service District	351
Bard Resource Conservation District	28
Winterhaven Fire Protection District (Dissolved)	0
Brawley County Water District (Dependent)	0
<b>TOTAL SPECIAL DISTRICT SHARE OF BUDGET</b>	<b>\$ 233,335</b>

As you can see, the cost that HPDU would have to bear is \$32,333 per year. This is a huge amount for our District and we should not agree to this cost. The cost is out of proportion for a community of our size. For example, a city like Holtville that has about the same population, pays \$4,000 per year. Keep in mind that this is not a one time cost, it will be reoccurring every year and will most likely increase every year. The formula that is used to determine the cost share isn't changed easily. This is the time to determine 1) if we care to join LAFCO and 2) the cost share method.

**FISCAL IMPACT:** Potential Impact of \$32,333 per year and continuing every year.

Should the vote of Special District representatives have a majority in favor of having seats on the LAFCO Board and the IID has not agreed to pay a larger portion of the total costs, HPUD will be forced to pay the full amount.

**DISCUSSION:**

When I attended the LAFCO meeting, when they approved our Service Area Plan, there was some discussion regarding the cost share agreement and IID's portion. Mr. Heuberger, Executive Director of LAFCO, stated that the IID may be willing to pay a larger portion of the total cost with the condition that IID be guaranteed a seat on the LAFCO Board. Special Districts will have two seats on LAFCO Board and if IID agrees to pay more they would be guaranteed one of the two seats. The Special District that get the other seat is determined by a majority vote of the Special District representatives.

I have attached the information provided by LAFCO which includes the CSDA white paper on Special District Representation on LAFCO.

I did not put this item on the agenda for action as we are not at the point to vote to join LAFCO. We just need direction. I need to know if we have an interest in joining LAFCO, and if we want to negotiate with IID so they will pay a greater share and guarantee IID a seat on LAFCO Board.

If we don't have any interest in pursuing Special District Representation on the Board, we will want to encourage other Special Districts to join us in that effort. We can't afford to have other local Special Districts vote to join LAFCO and force HPUD to pay the full amount of \$32,333 per year.

At this time, I need to know if the HPUD Board has any interest in pursuing a seat on LAFCO Board. The options are as follows:

**#1 - RECOMMENDED OPTION**

Direct staff to negotiate with IID so that they pay a greater share of the total Special District cost and guarantee that they will get one seat on LAFCO Board. If that negotiation results in HPUD's share at \$5,000 or less, then vote "YES" to have Special Districts to have a seat on LAFCO Board. Should negotiations result in HPUD's share greater than \$5,000 then vote "NO" and Special District not to have a seat on LAFCO Board.

**#2 - OPTION**

Direct Board President, Mr. Nolasco, to attend the meeting on May 2<sup>nd</sup> and vote "NO" to not have a Special District's represented on LAFCO Board. Do not negotiate with IID to pay a greater share and guarantee IID a seat on the LAFCO Board.

Respectfully Submitted,

Laura Fischer, General Manager

Attachment: Letter from LAFCO

March 22, 2018

TO: Imperial County Independent Special Districts  
FROM: Paula Graf, Analyst to LAFCO  
RE: Cancellation & Rescheduling of the April 25, 2018 Meeting

Ladies and Gentlemen:

A meeting invitation was sent to all special districts on March 16, 2018 regarding the RDA Oversight Board, Independent Special District Selection Committee and Special District representation on the LAFCO Commission.

**Special Districts Seat on the Commission:**

Subsequent to then, CSDA (California Special Districts Association) brought to our attention the passing of Assembly Bill 979 amending Government Code 56332.5. This bill provides the LAFCO's with a streamlined process to seat the Special Districts on the Commission.

The ICLAFCO (Commission) passed resolution #2018-06 on March 22, 2018 (attached) initiating the process of having the Special Districts represented on the Commission.

Since there are timing constraints to this process, we are cancelling the April 25<sup>th</sup> meeting and rescheduling to May 2, 2018.

Additional information and background can be found in the attached report titled Special District Representation on LAFCO.

**RDA Oversight Board Appointment:**

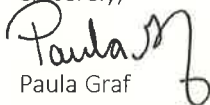
Additional information and background can be found in the attached report titled Countywide RDA Oversight Board Special District Appointment Frequently Asked Questions and Countywide RDA Oversight Board Special District Appointments.

**Independent Special District Selection Committee:**

As stated previously, the Independent Special District Selection Committee has never been formed. The Committee is comprised of the Presiding Officer of each special district or an alternate as appointed by the governing board of each district via resolution. Please provide the information of the Presiding Officer or the Alternate as designated and with a copy of the resolution.

If you have any questions and to confirm attendance for the May 2nd meeting, please contact me at 760-353-4115 or [pg@iclafco.com](mailto:pg@iclafco.com).

Sincerely,

  
Paula Graf  
Analyst to LAFCO

## RESOLUTION #2018-06

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL IN SUPPORT OF SPECIAL DISTRICT REPRESENTATION ON THE COMMISSION.**

**RESOLVED**, by the Local Agency Formation Commission of Imperial, State of California, that

**WHEREAS**, the Commission on numerous occasions has solicited the Independent Special Districts for representation on the Commission;

**WHEREAS**, Assembly Bill 979 was passed to simplify the process of seating Special Districts on the Commission;

**WHEREAS**, Government Code 56332.5 is amended to read:

(a) If the commission does not have special district representation from independent special districts on or before January 1, 2001, the commission shall initiate proceedings for representation of independent special districts upon the commission if either of the following occur:

(1) the commission to adopt a resolution of intention upon either the receipt of a written request by one or more members of the selection committee representing districts having 10% or more of the assessed value of taxable property within the county.

(2) the adoption of a resolution by the commission proposing representation of special districts upon the commission.

**NOW THEREFORE, BE IT DETERMINED, ORDERED AND RESOLVED AS FOLLOWS:**

The Commission directs the Executive Officer to initiate the process of having Special Districts represented on the Commission by following the requirements of the Government Code Sections including the revisions passed under Assembly Bill 979.

The Commission hereby adopts this Resolution in accordance with GC. 56332.5 (2).

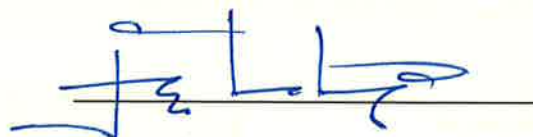
**PASSED, ADOPTED AND APPROVED** this 22nd day of March 2018 by the Local Agency Formation Commission and the following roll call votes:

AYES:

NAYS:

ABSENT:

Maria Nava-Froelich



Jurg Heuberger, Executive Officer



**California Special  
Districts Association**  
*Districts Stronger Together*

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# SPECIAL DISTRICT REPRESENTATION ON LAFCO

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**California Special  
Districts Association**  
*Districts Stronger Together*

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Since 1972, state law made it possible for Local Agency Formation Commissions (LAFCOs) to expand their memberships by adding two representatives of independent special districts. Today, just over half of all LAFCOs have commissioners representing special districts. LAFCO commissioners are appointed as follows:

- *Two County Supervisors:* Each county's board of supervisors appoints two of its members to serve on LAFCO. The county supervisors also select a third supervisor as an alternate.
- *Two City Councilmembers:* In counties with two or more cities, there is a "city selection committee" composed of the cities' mayors. The city selection committee appoints two elected city officials (city council members or mayors) and one alternate to serve on LAFCO.
- *Two Special District Board Members:* In 30 counties, the LAFCOs also have special district members. An "independent special district selection committee" composed of the presiding officers of each independent district appoints two district board members and one alternate to serve on LAFCO.
- *One Public Member:* The six (or four) appointed LAFCO commissioners choose the seventh (or fifth) commissioner, a public member, and one alternate. Professors, civic activists, and former elected officials often serve as public members on LAFCOs.

#### **Who Generally Pays for LAFCO Operations?**

Originally, state law required the county governments to pay for LAFCOs. With the passage of AB 2838 (Hertzberg, 2000), the Legislature required cities and independent special districts to share the counties' fiscal burden. Each sector (county, city, district) typically pays one-third of a LAFCO's budget. Where there is no independent special district representation on the LAFCO, the county and cities split the funding responsibility. Statutory formulas allocate the cities' default share among the cities and the independent special districts' share among the districts based on each agency's annual revenue. However, local officials can negotiate alternative formulas.

State law allows a LAFCO to charge fees to recover its costs of reviewing boundary changes and other actions. Most LAFCOs require the proponents to pay these fees when they apply for the boundary change, regardless of whether the applicants are voters, property owners, or local agencies.

#### **Do Special Districts, Cities, and Counties Always Need to Split Costs Equally?**

No. Some LAFCOs have special membership formulas. Three counties, Alpine, Mariposa, and Trinity have no incorporated cities, so their LAFCOs consist of three county supervisors and two public members. The three supervisors appoint the other two commissioners and one alternate.

Some counties, such as Sierra County, have only one incorporated city. Their LAFCOs have two county supervisors, one city council member, and two public members. The three elected officials appoint the two members of the public and one alternate.





For reasons relating to local politics, geography, and population, some LAFCOs have unique membership/funding formulas. For example, in Butte County, special districts collectively pay 10 percent of the LAFCO budget, in Sonoma County they pay 20 percent of the budget, and in San Diego County they pay two-sevenths.

In Santa Clara County, LAFCO splits costs between the cities, county, and special districts evenly. However, the special district portion is divided based upon an alternative formula. Santa Clara Valley Water District pays 50 percent of the special district share and is guaranteed one of the two special district seats on the LAFCO. The remaining districts split the other 50 percent of the special district share based upon budget size and elect the second district representative.

For a detailed breakdown of each LAFCO's representation and funding formulas, please see the attached document.

### **What are the Benefits of Representation?**

LAFCOs impact special district governance and operations whether special districts have representation on LAFCO or not. When determining whether to acquire representation on LAFCO, special districts may consider the following:

- LAFCO is one of the very few regional forums where special districts can sit as equals in decision making with their peers from cities and the county.
- Districts have a direct voice in policy development and decisions governing boundary changes, consolidations, annexations, formations, dissolutions, service extensions, power activation, and other actions of the LAFCO.
- Districts participate in the preparation and approval and Spheres of Influence and Municipal Service Reviews, which are typically conducted on all special districts every five years.
- Districts' perspective and expertise are included in a commission that has oversight over the very existence and growth of special districts.
- Demonstrating that special districts can take responsibility at the local-level and collaborate effectively with their local government peers through LAFCO fortifies the reputation of districts and protects against, forced consolidations and other mandates from the State.

### **Are There Any Additional Considerations?**

The process to be seated on LAFCO is specified in Government Code §§ 56332 and 56332.5.

Formerly, the process to be seated on LAFCO required that independent special districts within the county must initiate the process through a resolution. There was a one-year period for a majority of the independent special districts in the county to adopt the resolution. If a majority of district boards approved the resolution, the LAFCO would have convened an independent special district selection committee to select the two voting commissioners and one alternate.

However, CSDA and CALAFCO co-sponsored legislation, AB 979 (Lackey) of 2017 simplified this bureaucratic process by allowing special districts to simply vote on LAFCO representation using an existing statutory process (Government Code § 56332).

Now, special districts can participate on LAFCO simply by a vote of a quorum of what's called the "independent special districts selection committee". If special districts in a county do not yet have representation on LAFCO, then this committee has likely never convened. It consists of the presiding officer (board president or chair) of each independent special district in the county. If a



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special district's presiding officer is unable to participate, the district may appoint an alternate representative from its board.

A vote to determine special district representation on LAFCO is conducted by the LAFCO executive officer at an in-person meeting or by mail-ballot. Such a vote can be called by one of two methods:

1. Upon written request to the LAFCO executive officer by one or more members of the above-referenced independent special districts selection committee representing 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll; or
2. Upon adoption of a resolution by the LAFCO proposing representation of special districts upon the commission.

Importantly, a vote on LAFCO representation is also an opportunity to appoint the special district representative for the Countywide Redevelopment Agency Oversight Board. The first such appointment must occur prior to July 15, 2018. Should the post remain unfilled by July 15th, the Governor may appoint any individual to that position. (Health and Safety Code § 34179)

#### **Where Should We Start?**

If you are interested in learning more about special district representation on LAFCO, you should start by reaching out to the Executive Officer of your county's LAFCO. You can find a roster for all 58 LAFCOs at [www.calafco.org](http://www.calafco.org). You can also speak with your local CSDA public affairs field coordinator who can connect you with other special district leaders in your county who may be interested in working with you. Find your public affairs field coordinator at [www.csda.net](http://www.csda.net).

# Local Agency Formation Commissions



## Are you seated on LAFCo?

**LAFCos with Special District representation**



**Govern with your peers – Claim your seat on LAFCo**

**APPORTIONMENT OF LAFCO NET OPERATING EXPENSES BETWEEN GENERAL MEMBERSHIP CLASSES AND  
BETWEEN AGENCIES WITHIN EACH MEMBERSHIP CLASS<sup>1</sup>**

	<b>County</b>	<b>Cities<sup>2</sup></b>	<b>Districts<sup>3</sup></b>	<b>Govt. Code §</b>
<b>County, City &amp; Special District Representation</b> [Alameda, Calaveras, Contra Costa, El Dorado, Humboldt, Lake, Mendocino, Nevada, Placer, Riverside, San Luis Obispo, San Mateo, Santa Cruz, Santa Barbara, Shasta, Sutter, Ventura] <b>Except the Following:</b>				
Butte	45%	45%	10%	56381(b)(4)
Kern	33 1/3%	33 1/3%	33 1/3% Individual apportionments in proportion to operating revenues	56381(b)(1) (C),(E)
Los Angeles	38.462%	Los Angeles: 15.385% All Others: 23.077%	23.077%	56326; 56381; 56381.6
Mono	50%	Mammoth Lakes: 50%	0	56381(b)(4)
Monterey	33 1/3%	33 1/3%	33 1/3% Hospital District: 25% All Others: 75%	56381(b)(1) (C)-(F)
Orange	33 1/3%	33 1/3% Individual apportionments based on population and area in sq. miles	33 1/3% Individual apportionments based on alternative formula	56381(b)(1) (B),(C)
San Diego	2/7	San Diego: 1/7 All Others: 2/7 Individual apportionments in proportion to general revenues	2/7	56328; 56381; 56381.6
Sonoma	40 %	40%	20%	56381(b)(4)
San Bernardino	33 1/3%	33 1/3%	33 1/3% <b>See Note #4</b>	56381(b)(1) (C)-(F)

	<b>County</b>	<b>Cities<sup>2</sup></b>	<b>Districts<sup>3</sup></b>	<b>Govt. Code §</b>
Sacramento	33 $\frac{1}{3}$ %	33 $\frac{1}{3}$ % Sacramento: 50% All Others 50%	33 $\frac{1}{3}$ % SMUD: 50% All Others: 50% Individual apportionments except SMUD based on five yr. average of total revenues	56326.5; 56381; 56381.6
Santa Clara	33 $\frac{1}{3}$ %	San Jose: 16.7% All Others: 16.7%	33 $\frac{1}{3}$ % Santa Clara Valley Water District pays	56327; 56381; 56381.6
<b>County &amp; City Representation (No Districts)</b> [Amador, Del Norte, Glenn, Lassen, Madera, Merced, Modoc, Plumas, Stanislaus, Sierra, Yuba] <b>Except the Following:</b>	50%	50% Individual apportionments in proportion to total revenues	-	56381(b)(2)
Colusa	Based on % population of the cities and unincorporated area		-	
Kings	50%	50% Individual apportionments in proportion to population	-	56381(b)(1)(B), (2)
Napa	50%	50% Individual apportionments in proportion to population (60%) and general tax revenues (40%)	-	56381(b)(1)(B), (2)
San Joaquin	50%	50% Individual apportionments in proportion to population	-	56381(b)(1)(B), (2)

	<b>County</b>	<b>Cities<sup>2</sup></b>	<b>Districts<sup>3</sup></b>	<b>Govt. Code §</b>
Solano	50%	50% Individual apportionments in proportion to general revenues	-	56381(b)(1)(B), (2)
Tulare	Based on % population of the cities and unincorporated area		-	56381(b)(4)
Tuolumne	Apportionments for the County and the (one) city based on the Local Transportation Fund per capita percentage. The City of Sonora currently pays 8.1% and the County pays the balance.		-	56381(b)(4)
Yolo	50%	50% Individual apportionments in proportion to general revenues	-	56381(b)(1)(B), (2)
<b>County &amp; Special District Representation (No Cities)</b> [Trinity]	50%	-	50% Individual apportionments in proportion to total revenues	56381(b)(3)
<b>County Representation Only (No Special Districts or Cities)</b> [Alpine]	100%	-	-	56381(b)(3)
<b>San Francisco</b>	100% County/City		-	56381(b)(4)

- <sup>1</sup> Table does not include information for the following counties: Fresno, Imperial, Inyo, Marin, Mariposa, San Benito, Siskiyou and Tehama.
- <sup>2</sup> Except for the alternative methods (exceptions) noted in the table, the cities' share is apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county pursuant to Section 56381(b)(1)(B) of the Govt. Code.
- <sup>3</sup> Except for the alternative methods (exceptions) noted in the table, the independent special districts' share is apportioned in proportion to each district's total revenues, as reported in the most recent edition of the Special Districts Annual Report published by the Controller, as a percentage of the combined total district revenues within a county pursuant to Section 56381(b)(1)(C) and (E) of the Govt. Code.
- <sup>4</sup> San Bernardino County special districts alternative funding formula (Adopted by Special District Vote July 2002; Amended by Special District Vote March 2, 2010):
  1. Healthcare (Hospital) Districts shall be limited to payment of \$1,500 regardless of Total Revenue.
  2. Those districts with Total Revenue of more than \$50,000,000 shall pay \$30,000.
  3. Those districts with Total Revenue between \$20,000,000 and \$50,000,000 shall pay \$20,000.
  4. Those districts with Total Revenue between \$5,000,000 and \$20,000,000 shall pay \$10,000.
  5. Those districts with Total Revenue between \$2,000,000 and \$5,000,000 shall contribute an amount not to exceed \$5,000.
  6. Those districts with Total Revenue of less than \$2,000,000 shall be apportioned an amount to be determined by the ratio of each district's Total Revenue as compared to the Total Revenues whose share does not exceed \$5,000

**GOVERNMENT CODE – (GOV)**

**CHAPTER 2. Formation of Commission and Selection of Commissioners [56325 - 56337]**

*(Chapter 2 added by Stats. 1985, Ch. 541, Sec. 3.)*

**56325.**

There is hereby continued in existence in each county a local agency formation commission. Except as otherwise provided in this chapter, the commission shall consist of members appointed as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two appointed by the cities in the county, each of whom shall be a mayor or council member, appointed by the city selection committee. The city selection committee shall also appoint one alternate member who shall also be a mayor or council member and shall be appointed and serve pursuant to Section 56335. The city selection committee is encouraged to appoint members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(c) Two presiding officers or members of legislative bodies of independent special districts appointed by the independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also appoint a presiding officer or member of the legislative body of an independent special district as an alternate member who shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to make appointments that fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(d) One representing the general public appointed by the other members of the commission. The other members of the commission may also appoint one alternate member who shall serve pursuant to Section 56331. Appointment of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members appointed by each of the other appointing authorities. Whenever a vacancy occurs in the public member or alternate public member position, the commission shall cause a notice of vacancy to be posted as provided in Section 56158. A copy of this notice shall be sent to the clerk or secretary of the legislative body of each local agency within the county. Final appointment to fill the vacancy may not be made for at least 21 days after the posting of the notice.

*(Amended by Stats. 2015, Ch. 114, Sec. 2. Effective January 1, 2016.)*

**56325.1.**

While serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person.

*(Added by Stats. 2000, Ch. 761, Sec. 57. Effective January 1, 2001.)*

**56326.**

In Los Angeles County, the commission shall consist of nine members, appointed as follows:

(a) Two appointed by the board of supervisors from its own membership. The board of supervisors shall also appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One appointed by the board of supervisors, who shall not be a member of the board of supervisors but who shall be a resident of the San Fernando Valley Statistical Area, as defined in subdivision (c) of Section 11093. The board of supervisors shall also appoint an alternate member who shall not be a



member of the board of supervisors but who is a resident of the San Fernando Valley Statistical Area. The alternate member may serve and vote in place of the member appointed pursuant to this subdivision if that member is absent or disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular member becomes vacant, the alternate member may serve and vote in place of the former regular member until the appointment and qualification of a regular member to fill the vacancy.

(c) Two appointed by the cities in the county, each of whom shall be a mayor or council member, appointed by the city selection committee. The city selection committee shall also appoint one alternate member who shall also be a mayor or council member and shall be appointed and serve pursuant to Section 56335. The city selection committee is encouraged to appoint members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) One appointed by the presiding officer of the legislative body of a city in the county having a population in excess of 30 percent of the total population of the county who is a member of the legislative body of the city. The presiding officer of the legislative body shall also appoint an alternate member who is a member of the legislative body. The alternate member may serve and vote in place of the member appointed pursuant to this subdivision if the member is absent or disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular member becomes vacant, the alternate member may serve and vote in place of the former regular member until the appointment and qualification of a regular member to fill the vacancy.

(e) Two presiding officers or members of legislative bodies of independent special districts appointed by the independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also appoint one alternate member who shall be a presiding officer or member of the legislative body of an independent special district and shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to appoint members to fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(f) One representing the general public appointed by the other members of the commission. The other members of the commission may also appoint one alternate member who shall serve pursuant to Section 56331.

*(Amended by Stats. 2015, Ch. 114, Sec. 3. Effective January 1, 2016.)*

**56326.5.**

In Sacramento County, the commission shall consist of seven members, appointed as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One appointed by the City of Sacramento who is a member of the city council, appointed by the mayor and confirmed by the city council. The mayor shall also appoint, subject to confirmation by the council, an alternate member who is a member of the city council. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One appointed by the cities in the county, who is a mayor or council member appointed by the city selection committee. The city selection committee shall also appoint one alternate member who shall also be a mayor or council member and shall be appointed and serve pursuant to Section 56335. The city selection committee is encouraged to appoint members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) Two presiding officers or members of legislative bodies of independent special districts appointed by the independent special district selection committee pursuant to Section 56332. The independent special district selection committee shall also appoint one alternate member who shall be a presiding officer or member of the legislative body of an independent special district and shall be appointed and serve pursuant to Section 56332. The independent special district selection committee is encouraged to appoint

members to fairly represent the diversity of the independent special districts in the county, with respect to population and geography.

(e) One representing the general public, appointed by the other six members of the commission. The commission may also appoint an alternate public member who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

*(Amended by Stats. 2015, Ch. 114, Sec. 4. Effective January 1, 2016.)*

**56327.**

In Santa Clara County, the commission shall consist of five members, appointed as follows:

(a) Two appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One appointed by the city in the county having the largest population, who is a member of the legislative body of the city, appointed by the city council. The city council shall also appoint an alternate member who is a member of the legislative body of the city. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One appointed by the cities in the county, who is a mayor or council member appointed by the city selection committee. The city selection committee shall also appoint one alternate member who shall also be a mayor or council member and shall be appointed and serve pursuant to Section 56335. The city selection committee is encouraged to appoint members to fairly represent the diversity of the cities in the county, with respect to population and geography.

(d) One representing the general public, appointed by the other four, or, if the commission is enlarged pursuant to Section 56327.3, the other six, members of the commission. This member shall not be a resident of a city which is already represented on the commission. The commission may also appoint an alternate public member, who shall not be a resident of a city represented on the commission, and who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

*(Amended by Stats. 2015, Ch. 114, Sec. 5. Effective January 1, 2016.)*

**56327.3.**

In Santa Clara County, the commission shall be enlarged by two members if, pursuant to the provisions of Chapter 5 (commencing with Section 56821), the commission orders representation of special districts upon the commission.

*(Amended by Stats. 2015, Ch. 114, Sec. 6. Effective January 1, 2016.)*

**56328.**

(a) In San Diego County, the commission, which consists of seven members, augmented pursuant to Section 56332, shall be additionally augmented by the appointment of an eighth member and that member shall, notwithstanding subdivision (b) of Section 56325, be a member of the legislative body of the city in the county having the largest population, appointed by the legislative body of that city.

(b) The legislative body of the city shall appoint an alternate member at the same time and in the same manner as it appoints the regular member appointed pursuant to subdivision (a). If the regular city member is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of the regular city member for that meeting. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place

of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

*(Amended by Stats. 2000, Ch. 761, Sec. 61. Effective January 1, 2001.)*

**56328.5.**

(a) In Kern County, the commission, which consists of seven members, augmented pursuant to Section 56332, shall be additionally augmented by the appointment of an eighth member and a ninth member.

(b) The eighth member shall, notwithstanding subdivision (b) of Section 56325, be a member of the legislative body of the city in the county having the largest population, appointed by the legislative body of that city.

The legislative body of the city shall appoint an alternate member at the same time and in the same manner as it appoints the eighth regular member. If the regular city member is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of the regular city member for that meeting. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) The ninth member shall represent the general public, but shall not be a member of the governing body of any local agency. The ninth member shall be appointed by the four members of the commission appointed by the county supervisors and the independent special district selection committee. Those commission members may also appoint an alternate public member, who is not a member of the governing body of any local agency, who may serve and vote in the place of the regular public member appointed pursuant to this subdivision if that regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member appointed pursuant to this subdivision becomes vacant, the alternate member may serve and vote in place of that former regular public member until the appointment and qualification of a regular public member pursuant to this subdivision to fill the vacancy.

*(Added by Stats. 2005, Ch. 559, Sec. 1. Effective January 1, 2006.)*

**56329.**

If there is no city in the county, the commission shall consist of five members, appointed as follows which may be further augmented pursuant to Sections 56332 and 56332.5:

(a) Three appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a fourth supervisor who is an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two representing the general public appointed by the other three members of the commission. Appointment of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members selected by each of the other appointing authorities.

*(Amended by Stats. 2015, Ch. 114, Sec. 7. Effective January 1, 2016.)*

**56331.**

When appointing a public member pursuant to Sections 56325, 56326, 56326.5, 56327, 56328, 56328.5, and 56329, the commission may also appoint one alternate public member who may serve and vote in place of a regular public member who is absent or who disqualifies himself or herself from participating in a meeting of the commission. The public member and the alternate public member shall be residents of the county of the appointing commission.

If the office of a regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

No person appointed as a public member or alternate public member pursuant to this chapter shall be an officer or employee of the county or any city or district with territory in the county, provided, however, that any officer or employee serving on January 1, 1994, may complete the term for which he or she was appointed.

*(Amended by Stats. 2016, Ch. 165, Sec. 3. (AB 2910) Effective January 1, 2017.)*

**56331.3.**

If two or more members are absent or disqualify themselves from participating in a meeting of the commission, any alternate member who is authorized to serve and vote in the place of a member shall only have one vote.

*(Added by Stats. 1987, Ch. 1327, Sec. 4.)*

**56332.**

(a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to participate in a meeting or election of the independent special district selection committee, the legislative body of the district may appoint one of its members as an alternate to participate in the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer or his or her alternate as designated by the governing body. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under one of the following circumstances:

(1) Whenever the executive officer anticipates that a vacancy will occur within the next 90 days among the members or alternate member representing independent special districts on the commission.

(2) Whenever a vacancy exists among the members or alternate member representing independent special districts upon the commission.

(3) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(4) Upon the adoption of a resolution of intention pursuant to Section 56332.5.

(5) Upon receipt of a written request by one or more members of the selection committee notifying the executive officer of the need to appoint a member representing independent special districts on an oversight board pursuant to paragraph (3) of subdivision (j) of Section 34179 of the Health and Safety Code.

(c) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed members of the legislative body of an independent special district residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. Service on the commission by a regular district member shall not disqualify, or be cause for disqualification of, the member from acting on proposals affecting the special district on whose legislative body the member serves. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district on whose legislative body the member serves.

(d) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

(e) A majority of the independent special district selection committee may determine to conduct the committee's business by mail, including holding all elections by mailed ballot, pursuant to subdivision (f).

(f) If the independent special district selection committee has determined to conduct the committee's business by mail or if the executive officer determines that a meeting of the special district selection committee is not feasible, the executive officer shall conduct the business of the committee by mail. Elections by mail shall be conducted as provided in this subdivision.

(1) The executive officer shall prepare and deliver a call for nominations to each eligible district. The presiding officer, or his or her alternate as designated by the governing body, may respond in writing by the date specified in the call for nominations, which date shall be at least 30 days from the date on which the executive officer mailed the call for nominations to the eligible district.

(2) At the end of the nominating period, if only one candidate is nominated for a vacant seat, that candidate shall be deemed appointed. If two or more candidates are nominated, the executive officer shall prepare and deliver one ballot and voting instructions to each eligible district. The ballot shall include the names of all nominees and the office for which each was nominated. Each presiding officer, or his or her alternate as designated by the governing body, shall return the ballot to the executive officer by the date specified in

the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballot to the eligible district.

(3) The call for nominations, ballots, and voting instructions shall be delivered by certified mail to each eligible district. As an alternative to the delivery by certified mail, the executive officer, with prior concurrence of the presiding officer or his or her alternate as designated by the governing body, may transmit materials by electronic mail.

(4) If the executive officer has transmitted the call for nominations or ballots by electronic mail, the presiding officer, or his or her alternate as designated by the governing body, may respond to the executive officer by electronic mail.

(5) Each returned nomination and ballot shall be signed by the presiding officer or his or her alternate as designated by the governing body of the eligible district.

(6) For an election to be valid, at least a quorum of the special districts must submit valid ballots. The candidate receiving the most votes shall be elected, unless another procedure has been adopted by the selection committee. Any nomination and ballot received by the executive officer after the date specified is invalid, provided, however, that if a quorum of ballots is not received by that date, the executive officer shall extend the date to submit ballots by 60 days and notify all districts of the extension. The executive officer shall announce the results of the election within seven days of the date specified.

(7) For a vote on special district representation to be valid, at least a quorum of the special districts must submit valid ballots. By majority vote of those district representatives voting on the issue, the selection committee shall either accept or deny representation.

(8) All election materials shall be retained by the executive officer for a period of at least six months after the announcement of the election results.

(g) For purposes of this section, "executive officer" means the executive officer or designee as authorized by the commission.

*(Amended by Stats. 2017, Ch. 203, Sec. 1. (AB 979) Effective January 1, 2018.)*

#### **56332.5.**

(a) If the commission does not have representation from independent special districts on or before January 1, 2001, the commission shall initiate proceedings for representation of independent special districts upon the commission if either of the following occur:

(1) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(2) Upon adoption of a resolution by the commission proposing representation of special districts upon the commission.

(b) The commission, at its next regular meeting, shall adopt a resolution of intention. The resolution of intention shall state whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth. The commission shall order the executive officer to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution in order to determine whether independent special districts shall accept representation on the commission and appoint independent special district representation pursuant to Section 56332.

*(Amended by Stats. 2017, Ch. 203, Sec. 2. (AB 979) Effective January 1, 2018.)*

#### **56333.**

When a commission is enlarged to seven members as provided in Section 56332, the public members appointed pursuant to Sections 56325 and 56329 shall thereafter be appointed by members of the commission representing cities, counties, and special districts. Those appointments shall be made at the times and in the manner provided in Section 56334.

*(Amended by Stats. 2001, Ch. 388, Sec. 6. Effective January 1, 2002.)*

#### **56334.**

The term of office of each member shall be four years and until the appointment and qualification of his or her successor. Upon enlargement of the commission by two members, as provided in Section 56332, the new members first appointed to represent independent special districts shall classify themselves by lot so that the expiration date of the term of office of one new member coincides with the existing member who holds the office represented by the original two-year term on the commission and the term of office of the other new member coincides with the existing member who holds the office represented by the original

four-year term on the commission. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which the term of the member expires, unless procedures adopted by the commission specify an alternate date to apply uniformly to all members. However, the length of a term of office shall not be extended more than once. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant.

The chairperson of the commission shall be selected by the members of the commission.

Commission members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office. The commission may authorize payment of a per diem to commission members and alternates for each day while they are in attendance at meetings of the commission.

*(Amended by Stats. 2002, Ch. 664, Sec. 121. Effective January 1, 2003.)*

**56335.**

In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1. Regular members of the commission shall be appointed by the city selection committee pursuant to Sections 56325, 56326, and 56327.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of that regular city member for that meeting.

Except in the case of a member appointed pursuant to subdivision (d) of Section 56326 or subdivision (b) of Section 56327, a city selection committee, may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the city which the member or alternate represents.

If the office of a regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

*(Amended by Stats. 1986, Ch. 86, Sec. 2.)*

**56336.**

Each commission may adopt regulations with respect to disqualification of members or alternates from participating in the review of a proposal. In the absence, however, of those regulations, Section 56332 or 56335 shall apply. The representation by a member or alternate of a city or district shall not disqualify, or be cause for disqualification of, the member or alternate from acting on a proposal affecting the city or the district, and any regulation providing for the disqualification of a city or district representative for that reason is null and void.

*(Amended by Stats. 1986, Ch. 86, Sec. 3.)*

**56337.**

A city, county, or district officer may serve as a member of the commission while holding office as a city, county, or district officer. If a member who is a city, county, or district officer ceases to be an officer of a city, county, or district during his or her term, his or her membership on the commission shall be considered vacant.

*(Amended by Stats. 2004, Ch. 355, Sec. 4.5. Effective January 1, 2005.)*

**Health and Safety Code (HSC)**

**CHAPTER 4. Oversight Boards [34179 - 34181]**

*(Chapter 4 added by Stats. 2011, 1st Ex. Sess., Ch. 5, Sec. 7.)*

**34179.**

(a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before May 1, 2012. Members shall be selected as follows:

- (1) One member appointed by the county board of supervisors.
- (2) One member appointed by the mayor for the city that formed the redevelopment agency.
- (3) (A) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.  
(B) On or after the effective date of this subparagraph, the county auditor-controller may determine which is the largest special district for purposes of this section.
- (4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.
- (5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.
- (6) One member of the public appointed by the county board of supervisors.
- (7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time. In the case where city or county employees performed administrative duties of the former redevelopment agency, the appointment shall be made from the recognized employee organization representing those employees. If a recognized employee organization does not exist for either the employees of the former redevelopment agency or the city or county employees performing administrative duties of the former redevelopment agency, the appointment shall be made from among the employees of the successor agency. In voting to approve a contract as an enforceable obligation, a member appointed pursuant to this paragraph shall not be deemed to be interested in the contract by virtue of being an employee of the successor agency or community for purposes of Section 1090 of the Government Code.
- (8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.
- (9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.
- (10) If a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, if that appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city if that appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.
- (11) Each appointing authority identified in this subdivision may, but is not required to, appoint alternate representatives to serve on the oversight board as may be necessary to attend any meeting of the oversight board in the event that the appointing authority's primary representative is unable to attend any meeting for any reason. If an alternate representative attends any meeting in place of the primary representative, the alternate representative shall have the same participatory and voting rights as all other attending members of the oversight board.
  - (b) The Governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by May 15, 2012, or any member position that remains vacant for more than 60 days.
  - (c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's and the successor agency's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.
  - (d) Oversight board members are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974. All actions taken by the oversight board shall be adopted by resolution.

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h) (1) The department may review an oversight board action taken pursuant to this part. Written notice and information about all actions taken by an oversight board shall be provided to the department as an approved resolution by electronic means and in a manner of the department's choosing. Without abrogating the department's authority to review all matters related to the Recognized Obligation Payment Schedule pursuant to Section 34177, oversight boards are not required to submit the following oversight board actions for department approval:

(A) Meeting minutes and agendas.

(B) Administrative budgets.

(C) Changes in oversight board members, or the selection of an oversight board chair or vice chair.

(D) Transfers of governmental property pursuant to an approved long-range property management plan.

(E) Transfers of property to be retained by the sponsoring entity for future development pursuant to an approved long-range property management plan.

(2) An oversight board action submitted in a manner specified by the department shall become effective five business days after submission, unless the department requests a review of the action. Each oversight board shall designate an official to whom the department may make those requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. Except as otherwise provided in this part, in the event that the department requests a review of a given oversight board action, it shall have 40 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and the oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department. If the department reviews a Recognized Obligation Payment Schedule, the department may eliminate or modify any item on that schedule prior to its approval. The county auditor-controller shall reflect the actions of the department in determining the amount of property tax revenues to allocate to the successor agency. The department shall provide notice to the successor agency and the county auditor-controller as to the reasons for its actions. To the extent that an oversight board continues to dispute a determination with the department, one or more future Recognized Obligation Payment Schedules may reflect any resolution of that dispute. The department may also agree to an amendment to a Recognized Obligation Payment Schedule to reflect a resolution of a disputed item; however, this shall not affect a past allocation of property tax or create a liability for any affected taxing entity.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with Section 1000) of the Government Code shall apply to oversight boards. Notwithstanding Section 1099 of the Government Code, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Except as specified in subdivision (q), commencing on and after July 1, 2018, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board, which shall be staffed by the county auditor-controller, by another county entity selected by the county auditor-controller, or by a city within the county that the county auditor-controller may select after consulting with the department. Pursuant to Section 34183, the county auditor-controller may recover directly from the Redevelopment Property Tax Trust Fund, and distribute to the appropriate city or county entity, reimbursement for all costs incurred by it or by the city or county pursuant to this subdivision, which shall include any associated startup costs. However, if only one successor agency exists within the county, the county auditor-controller may designate the successor agency to staff the oversight board. The oversight board is appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to Section 50270 of the Government Code. In a city and county, the mayor may appoint one member.



- (3) One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.
- (4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.
- (5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.
- (6) One member of the public may be appointed by the county board of supervisors.
- (7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.
- (k) The Governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2018, or any member position that remains vacant for more than 60 days.
- (l) Commencing on and after July 1, 2018, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (j).
- (m) Any oversight board for a given successor agency, with the exception of countywide oversight boards, shall cease to exist when the successor agency has been formally dissolved pursuant to Section 34187. A county oversight board shall cease to exist when all successor agencies subject to its oversight have been formally dissolved pursuant to Section 34187.
- (n) An oversight board may direct a successor agency to provide additional legal or financial advice than what was given by agency staff.
- (o) An oversight board is authorized to contract with the county or other public or private agencies for administrative support.
- (p) On matters within the purview of the oversight board, decisions made by the oversight board supersede those made by the successor agency or the staff of the successor agency.
- (q) (1) Commencing on and after July 1, 2018, in each county where more than 40 oversight boards were created by operation of the act adding this part, there shall be five oversight boards, which shall each be staffed in the same manner as specified in subdivision (j). The membership of each oversight board shall be as specified in paragraphs (1) through (7), inclusive, of subdivision (j).
- (2) The oversight boards shall be numbered one through five, and their respective jurisdictions shall encompass the territory located within the respective borders of the first through fifth county board of supervisors districts, as those borders existed on July 1, 2018. Except as specified in paragraph (3), each oversight board shall have jurisdiction over each successor agency located within its borders.
- (3) If a successor agency has territory located within more than one county board of supervisors' district, the county board of supervisors shall, no later than July 15, 2018, determine which oversight board shall have jurisdiction over that successor agency. The county board of supervisors or their designee shall report this information to the successor agency and the department by the aforementioned date.
- (4) The successor agency to the former redevelopment agency created by a county where more than 40 oversight boards were created by operation of the act adding this part, shall be under the jurisdiction of the oversight board with the fewest successor agencies under its jurisdiction.
- (Amended by Stats. 2015, Ch. 325, Sec. 11. (SB 107) Effective September 22, 2015.)*