

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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September 13, 2017

To: LAFCo Commissioners
From: Martha Poyatos, Executive Officer *M. Poyatos*
Subject: Little Hoover Commission Final Report on Special Districts – Information Only

On August 30, 2017, the Little Hoover Commission (LHC) released their Final Report on Special Districts. The attached report, *Special Districts: Improving Oversight & Transparency*, is the product of a year-long study by the Commission that included two public hearings and two roundtable discussion forums. LHC's review was very broad and included the following four areas:

- Oversight of special districts, specifically opportunities to bolster the effectiveness of Local Agency Formation Commissions (LAFCos)
- The continued need for districts to improve transparency and public engagement
- The frequently-controversial evolution of California's health care special districts, which in the 1940s and 1950s built a far-ranging system of hospitals that are mostly now gone due to a tremendous transformation in health care from hospitalization to preventive care
- The urgency of climate change adaptation in California and the front-line roles that special districts – particularly water, wastewater treatment, and flood control districts – play in preparing their communities and defending them from harm

There are 20 final recommendations, nine of which are directly related to LAFCo. Full recommendations can be found on Pages 6 through 12 of the report and are categorized under the areas of governance, transparency, health care districts, and climate change. Of note are recommendations that the Legislature curtail special legislation that either bypasses LAFCo or divests LAFCo of authority, and a recommendation for a one-time infusion of grant funding (\$1 to \$3 million) by the Legislature to LAFCos. In addition to the focused recommendations, the report contains extensive background and information regarding the evolution and diversity of health care districts as well as the role of special districts, particularly public sewer service and sewage treatment agencies, in responding to sea level rise.

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Recommendations

The LAFCo-related recommendations are provided below as written in the report:

Recommendation 1: The Legislature and the Governor should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.

The Legislature and Governor have reason to be frustrated with slow and deliberative LAFCO processes, but these are local institutions of city, county, and special district members often better attuned to local politics than those in the State Capitol. Exemptions where the Legislature gets involved should be few and for special cases where the local governing elites are so intransigent or negligent – or so beholden to entrenched power structures – that some higher form of political authority is necessary.

Recommendation 2: The Legislature should provide one-time grant funding to pay for specified LAFCO activities, to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.

The Commission rarely recommends additional funding as a solution. However, a small one-time infusion of \$1 million to \$3 million in grant funding potentially could save California taxpayers additional money if it leads to streamlined local government and improved efficiency in service delivery. This funding could provide an incentive for LAFCOs or smaller districts to start a dissolution or consolidation process. Participants in the Commission's public process suggested the Strategic Growth Council or Department of Conservation could administer this one-time funding.

Recommendation 3: The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.

There has been no formal review to determine the number of inactive special districts (those that hold no meetings and conduct no public business). Rough estimates gauge the number to be in the dozens. Simplifying the LAFCOs' legal dissolution process would represent a significant step toward trimming district rolls in California. The Commission supports SB 448 and encourages the Legislature to enact the measure and for the Governor to sign the bill.

Recommendation 4: The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.

The Cortese-Knox-Hertzberg Reorganization Act of 2000 (AB 2838, Hertzberg) provided the option to add two special district members to county LAFCOs to broaden local governing perspectives. Nearly two decades later, 30 counties have special district representatives on their LAFCOs alongside city council members and county supervisors. This change provides

LAFCOs a more diverse decision-making foundation and stronger finances. But 28 counties, mostly in rural California have not added special district representatives to their LAFCO governing boards, citing scarce resources. Presently, a majority of a county's special districts must pass individual resolutions within one year supporting a change. This has repeatedly proved itself a formidable obstacle to broadening the outlook of local LAFCOs. AB 979 (Lackey) would allow a simple one-time election process where districts could easily – and simultaneously – decide the question.

Recommendation 5: The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.

The California Association of Local Agency Formation Commissions (CALAFCO) testified on August 25, 2016, that individual LAFCO members are expected to exercise their independent judgment on LAFCO issues rather than simply represent the interests of their appointing authority. But this is easier said than done when representatives serve on an at-will basis. The CALAFCO hearing witness said unpopular votes have resulted in LAFCO board members being removed from their positions. Fixed terms would allow voting members to more freely exercise the appropriate independence in decision-making.

Recommendation 6: The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.

Complicated and inconsistent processes potentially impact a LAFCO's ability to initiate a dissolution or consolidation of a district. If 10 percent of district constituents protest a LAFCO's proposed special district consolidation, a public vote is required. If a special district initiates the consolidation, then a public vote is required if 25 percent of the affected and elections if it initiates a constituents protest. Additionally, the LAFCO must pay for all costs for studies consolidation proposal, whereas the district pays these costs if it proposes or requests the consolidation. Various participants in the Commission's public process cautioned against setting yet another arbitrary threshold and advised the issue warranted further study before proposing legislative changes. They called for more consistency in the process.

Recommendation 7: The Legislature should require every special district to have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.

The Commission heard a great deal about the need for adequate reserves, particularly from special districts with large infrastructure investments. The Commission also heard concerns that reserves were too large. To better articulate the need for and the size of reserves, special districts should adopt policies for reserve funds and make these policies easily available to the public.

Recommendation 8: The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes.

Presently, it is difficult to assess actual reserve levels held by districts that define their numbers one way and the State Controller's Office which defines them another way. The State

Controller's Office is working to standardize numbers following a year-long consultation with a task force of cities, counties and special districts. To improve transparency on reserves, a subject that still eludes effective public scrutiny, they should push this project to the finish line as a high priority.

Recommendation 9: The Legislature should require that every special district have a website.

Key components should include:

- ***Name, location, contact information***
- ***Services provided***
- ***Governance structure of the district, including election information and the process for constituents to run for board positions***
- ***Compensation details – total staff compensation, including salary, pensions and benefits, or a link to this information on the State Controller's website***
- ***Budget (including annual revenues and the sources of such revenues, including without limitation, fees, property taxes and other assessments, bond debt, expenditures and reserve amounts)***
- ***Reserve fund policy***
- ***Geographic area served***
- ***Most recent Municipal Service Review***
- ***Most recent annual financial report provided to the State Controller's Office, or a link to this information on the State Controller's website***
- ***Link to the Local Agency Formation Commission and any state agency providing oversight***

Exemptions should be considered for districts that fall under a determined size based on revenue and/or number of employees. For districts in geographic locations without reliable Internet access, this same information should be available at the local library or other public building open and accessible to the public, until reliable Internet access becomes available statewide.

Building on this recommendation, every LAFCO should have a website that includes a list and links to all of the public agencies within each county service area and a copy of all of the most current Municipal Service Reviews. Many LAFCOs currently provide this information and some go further by providing data on revenues from property taxes and user fees, debt service and fund balance changes for all the local governments within the service area. At a minimum, a link to each agency would enable the public to better understand the local oversight authority of LAFCOs and who to contact when a problem arises.

Recommendation 13: The Legislature, which has been increasingly inclined to override local LAFCO processes and authority to press changes on healthcare districts, should defer these decisions to LAFCOs.

LAFCOs have shown successes in shaping the healthcare district landscape and should be the primary driver of change. Given the controversies over healthcare districts, the California Association of Local Agency Formation Commissions and LAFCOs should be at the forefront of studying the relevance of healthcare districts, potential consolidations and dissolutions of districts. To repeat a theme of Recommendation 1, the Legislature should retain its authority to dissolve health care districts or modify boundaries, but this authority should be limited to cases in which local political elites are so intransigent or negligent – or so beholden to local power structures – that some form of higher political authority is deemed necessary.

CALAFCO fully supports the final recommendations in the report after working with the Commission and their staff for the past 14 months.

Health Care Districts

The report dedicates considerable attention to health care districts and references both Sequoia Healthcare District (SHD) and Peninsula Health Care District (PHCD) in regard to Grand Jury Reports calling for expansion to include all of San Mateo County, board member, and staff testimony at LHC hearings. The report cites PHCD's real estate and development activities, including the planned 124-unit assisted living and memory care center facility in addition to community health programs. The report also identifies the exclusion of less-affluent coastal residents of San Mateo County from a health care district, and cites that the continuous probing of health care districts indicates a significant problem of public perception of how the districts operate and what is defined as health care.

The report concludes that: "LAFCOs have shown successes in shaping the health care district landscape and should be the primary driver of change. Given the controversies over healthcare districts, the California Association of Local Agency Formation Commissions and statewide LAFCOs should be at the forefront of studying the relevance of healthcare districts, potential consolidations and dissolutions of districts. The Commission also supports the Association of California Healthcare Districts' commitment to build stronger bridges to LAFCOs statewide and help develop new assessment tools for LAFCOs to analyze the relevance of districts during municipal service reviews."

Sea Level Rise

In regard to sea level rise, the report cites the November 2013 Department of Water Resources (DWR) report, *California's Flood Future*, stating that Orange, San Mateo, and Santa Clara counties have the largest populations exposed within 100-year floodplains, those areas that have a 1-in-100 (or 1 percent) probability of flooding in any given year. The vulnerability of wastewater treatment plants to sea level rise is underscored with the report citing the 66 independent special districts and 37 dependent county districts in California (in addition to municipalities) that collect billions of gallons of wastewater and treat it for re-use or disposal into rivers, bays, and the Pacific Ocean. The report also emphasizes the need to include special

districts in public engagement and regional multi-agency collaboration to respond to sea level rise and water resiliency.

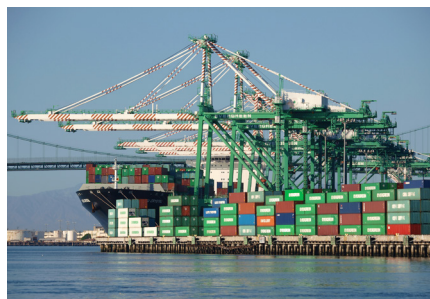
Conclusion

While the recommendations may influence future proposed legislation, the report encourages LAFCos to (1) ensure that Municipal Service Reviews and sphere updates cover the issues identified in the report and (2) promote organizational changes and partnerships that will include all service providers, including special districts, in multi-agency efforts to respond to sea level rise.



Special Districts: Improving Oversight & Transparency

Report #239, August 2017



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Dedicated to Promoting Economy and Efficiency in California State Government

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency.

By statute, the Commission is a bipartisan board composed of five public members appointed by the governor, four public members appointed by the Legislature, two senators and two assemblymembers.

In creating the Commission in 1962, the Legislature declared its purpose:

...to secure assistance for the Governor and itself in promoting economy, efficiency and improved services in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...

The Commission fulfills this charge by listening to the public, consulting with the experts and conferring with the wise. In the course of its investigations, the Commission typically empanels advisory committees, conducts public hearings and visits government operations in action.

Its conclusions are submitted to the Governor and the Legislature for their consideration. Recommendations often take the form of legislation, which the Commission supports through the legislative process.

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This report is available from the Commission's website at www.lhc.ca.gov.

Letter From The Chair

August 30, 2017



The Honorable Kevin de León
President pro Tempore of the Senate
and members of the Senate

The Honorable Patricia Bates
Senate Minority Leader

The Honorable Anthony Rendon
Speaker of the Assembly
and members of the Assembly

The Honorable Chad Mayes
Assembly Minority Leader

Dear Governor and Members of the Legislature:

California's most prevalent form of government – special districts – is often its least visible. In a year-long review, the Commission looked at how California's more than 2,000 independent special districts provide vital services ranging from fire protection to healthcare, cemeteries to sewers. It wanted to better understand if California taxpayers were well-served through this additional layer of specialized bureaucracy and to analyze whether consolidation or dissolution of some special districts could lead to improved efficiency in governance and operations.

The Commission found no one-size-fits-all answer. The districts are as diverse as the geographic locations they serve and the millions of Californians who support them through taxes and fees. What might provide an appropriate pathway for five small water districts in rural Northern California who want to consolidate but need help sorting out water rights, likely would not make sense for their powerhouse counterparts, the Metropolitan Water District or Santa Clara Valley Water District, who serve millions of customers in Southern California and the Bay Area. And water districts are just one of 29 types of independent special districts ranging from airport districts to veterans memorial districts.

As part of this study, the Commission considered the role of the Legislature, which gave life to this form of local government in 1877 and retains the power to create or dissolve districts and amend the practice acts that guide district activities. As California began its rapid growth and urbanization after World War II, the Legislature realized that decision-making over local government growth was best done by local officials. In 1963, the Legislature and Governor Edmund G. "Pat" Brown created a local mechanism for overseeing local boundary decisions – and formed 58 Local Agency Formation Commissions (LAFCOs). LAFCOs have the authority to initiate special district consolidations or dissolutions.

In 2000, the Legislature expanded the authority of LAFCOs to conduct Municipal Service Reviews. These reviews provide information to guide districts in performance improvement and can serve as a catalyst for LAFCOs to initiate consolidations or dissolutions. Like many great ideas in government, particularly in a state as large and diverse as California, these 58 different commissions are not uniformly effective.

The Commission also used this review to assess the progress of its recommendations from a 2000 report, *Special Districts: Relics of the Past or Resources for the Future?* In that study, the Commission found an expansive government sector, largely invisible, serving constituents who know little about them or how the money they provide is used.

The Commission found some progress but also saw a missed opportunity for special districts – many have a great story to tell. Very rarely are taxpayer dollars so closely tied to services provided in the community. And still people do not seem to know much about these local governments and their locally-elected boards.

As much as the Commission wanted to find a magic bullet to ensure these 2,000 districts were performing efficiently and effectively, it didn't. The LAFCO process may not be working as it could and should in every corner of the state, but special districts remain best served by local decision-making. To that end, the Commission recommends the Legislature curtail its practice of bypassing the local process. Additionally, the Commission offers a number of common-sense recommendations to help LAFCOs exercise their authority. Two ideas have already resulted in legislation, AB 979 (Lackey) and SB 448 (Wieckowski). The Commission recommends the Legislature enact SB 448 and requests the Governor's signature on AB 979 and SB 448. This report also includes a rare recommendation to infuse a small one-time grant fund to pay to initiate the most urgent consolidations or dissolutions, which should lead to taxpayer savings in improved government efficiency.

The Commission heard extensive testimony on reserve funding – a thorny issue first raised in its 2000 report. The State Controller's Office has convened a task force to standardize reporting on reserves, a necessary first step before anyone can assess the adequacy of each district's rainy day fund. The Commission also urges special districts to adopt prudent reserve policies and make these policies public.

The Commission found significant improvements since its last review in the way that districts communicate their activities and finances with their constituents although not every district has a website. All districts should have a website with basic information including how to participate in decision-making and an easy guide to revenue sources and expenditures.

The Commission did not evaluate every type of special district, but it did take a deeper look at one type – healthcare districts. Originally formed in the 1940s to build hospitals where none existed, less than half of the current healthcare districts run hospitals today. But even within healthcare districts, the Commission found significant differences. In rural communities, districts largely continue to fulfill their original mission – providing a hospital that otherwise would not exist. Among healthcare districts no longer operating hospitals, the Commission found some districts assessing local needs and filling a void in preventative healthcare service. But this was not consistent and the Commission suspects that in some locations, LAFCOs should do more to assess whether every healthcare district should continue to operate. To guide this work, an essential step for the Legislature is an update to the 1945 practice act to reflect the modern healthcare landscape.

As part of the vigorous discussion on reserves, special districts were asked how they were planning and using their reserves to adapt to climate change, particularly those districts with large infrastructure investments. Building on its 2014 report, *Governing California Through Climate Change*, the Commission in this report recommends special districts and their associations take more active roles in existing state government process and in sharing best practices.

During its study process, the Commission discussed some rather extreme solutions that generated intense interest. Through a very robust public process, however, the Commission ultimately concluded that local institutions are best served by local decision-making. The important recommendations in this report will lead to improved efficiency. The Commission stands ready to assist.



Pedro Nava
Chair, Little Hoover Commission

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Executive Summary

Special districts, the workhorses of public service delivery created by the California Legislature during the earliest days of statehood, represent the most common form of local government. They have prevailed through endless upheaval as California morphed from a state of rural open spaces into one of the world's most powerful economic engines and home to nearly 40 million people. Today special districts generate some \$21 billion in annual revenues and employ more than 90,000 local government workers.¹

In 2016 and 2017, the Little Hoover Commission reviewed and analyzed California's 2,071 independent special districts and the State of California's role and responsibility in overseeing them.² The Legislature not only created special districts and enacted the practice acts by which they are governed, but it retained the power to create new districts and also to dissolve them. In the early 1960s, the Legislature had the foresight to develop a local oversight mechanism, Local Agency Formation Commissions (LAFCOs) tasked with bringing more rational planning practices and reining in inappropriate growth by considering local government boundary decisions. LAFCOs have the authority to initiate dissolutions and consolidations of special districts, although ultimately local voters have the final say. The process is slow -- intentionally slow according to some --and occasionally frustrated parties attempt to bypass the local process by taking issues directly to the Legislature. This tension, in part, prompted the Commission to update its 2000 review of special districts to consider whether the local oversight process works as intended or whether a different process or a greater role for the Legislature would be more effective.

The Commission's review broke new ground, but also revisited issues first identified in its May 2000 report, *Special Districts: Relics of the Past or Resources for the Future?* The 2000 report declared that California's expansive special district sector often amounted to a poorly overseen and largely invisible governing sector serving residents who know little about who runs them or

what they pay in taxes to sustain them. The Commission nearly two decades ago questioned the soundness of special districts' financial management and asked if their numbers might be pared back through consolidations. Yet Commissioners also acknowledged in their 2000 analysis that special districts provide Californians valuable services and are "physically closest to their communities." The Commission concluded that despite its range of criticisms, special districts should remain, in the end, local institutions best served by local decision-making.

In its newest review the Commission heard from some who still contend that special districts are ripe for consolidation and represent convoluted, dispersed, under-the-radar government. Frustrated with the local oversight process, various local special district issues percolated up into bills in the 2015-16 legislative session as the Commission began its study, potentially signifying that the current system of oversight fails to work as well as intended.

In this review, the Commission found special districts themselves could do a better job of telling their own story to overcome the stigma that they function as hidden government. During an advisory committee meeting, Chair Pedro Nava encouraged special districts to "tell your story." There are very few government entities in a position to let people know that they work directly for the public and that the taxes and fees they collect fund local services, he said.

In testimony, the Commission also learned that despite the perception that special districts continue to proliferate in California, the number of special districts has declined 5 percent since 1997, while the number nationally increased by 10 percent.³ Thirty-three states have more special districts per capita than California. Despite frequent calls for dissolving or consolidating these local governments, special districts seem to have pluses that render them tolerable to those they govern and able to forestall movements to purge them or fold their work into city and county governments.

The Commission's 2016-2017 review delved into four primary arenas concerning special districts:

- Oversight of special districts, specifically, opportunities to bolster the effectiveness of Local Agency Formation Commissions (LAFCOs).
- The continued need for districts to improve transparency and public engagement.
- The frequently-controversial evolution of California's healthcare special districts, which in the 1940s and 1950s built a far-ranging system of hospitals that are mostly now gone due to a tremendous transformation in healthcare from hospitalization to preventive care.
- The urgency of climate change adaptation in California and the front-line roles that special districts, particularly water, wastewater treatment and flood control districts, play in preparing their communities and defending them from harm.

Toward Higher-Quality Local Control

As in 2000, the Commission held fast to the concept that special districts are essentially local institutions. Whether their individual endeavors are praised or panned, special districts seemingly reflect the wishes of local voters. They also reflect the politics of LAFCOs, unique oversight bodies in each county with authority to judge their performances and recommend whether they should continue to exist. The Commission again determined that LAFCOs should be the leading voice on the status of special districts in California – and that they need more tools to do the job well.

Commissioners perplexed by the seemingly slow progress in dissolutions and consolidations at one point during the study asked if a lack of money prevented LAFCOs and special districts from initiating consolidations or conducting the mandated Municipal Service Reviews that can identify opportunities for improved efficiency in service delivery. A chorus of stakeholders suggested a small, one-time infusion of grant funding, tied to specified outcomes to ultimately improve efficiency and save taxpayer dollars, was indeed warranted. They also called for various statutory changes that could bolster the effectiveness of LAFCOs.

Clearly, special districts can be improved. Given the routine front-line services they provide, the historic climate challenges these districts face in keeping California stable, as well as the need to provide the best possible healthcare to millions of residents, LAFCOs and the state have obligations to see that they succeed. To that end, the Commission offers 20 recommendations to guide the Legislature and Governor going forward. The first eight of those recommendations address the basic structure and governing issues revolving around special districts:

Recommendation 1: The Legislature and the Governor should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.

The Legislature and Governor have reason to be frustrated with slow and deliberative LAFCO processes. But these are local institutions of city, county and special district members often better attuned to local politics than those in the State Capitol. Exemptions where the Legislature gets involved should be few, and in special cases where the local governing elites are so intransigent or negligent – or so beholden to entrenched power structures – that some higher form of political authority is necessary.

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The Commission heard a great deal about the need for adequate reserves, particularly from special districts with large infrastructure investments. The Commission also heard concerns that reserves were too large. To better articulate the need for and the size of reserves, special districts should adopt policies for reserve funds and make these policies easily available to the public.

Recommendation 8: The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes.

Presently, it is difficult to assess actual reserve levels held by districts that define their numbers one way and the State Controller's Office which defines them another way. The State Controller's Office is working to standardize numbers following a year-long consultation with a task force of cities, counties and special districts. To improve transparency on reserves, a subject that still eludes effective public scrutiny, they should push this project to the finish line as a high priority.

Improving Transparency and Public Involvement

Because there are thousands of special districts in California, performing tasks as varied as managing water supply to managing rural cemeteries, the public has little practical ability to ascertain the functionality of special districts, including the scope of services these local districts provide, their funding sources, the use of such funds and their governance structure. Although publicly elected boards manage independent special districts, constituents lack adequate resources to identify their local districts much less the board members who collect and spend their money.

The Commission saw a number of opportunities for special districts to do a better job communicating with the public, primarily through improvements to district websites and more clearly articulating financing policies, including adopting and making publicly available fund reserve policies. Existing law requires special districts with a website to post meeting agendas and to post or provide links to compensation reports and financial transaction reports that are required to be submitted to the State Controller's Office. The State Controller's Office – despite having a software platform from the late 1990s – attempts to make all the information it receives as accessible as possible.

Many special districts already utilize their websites to effectively communicate with their constituents and voluntarily follow the nonprofit Special District Leadership Foundation's transparency guidelines and receive the foundation's District Transparency Certificate of Excellence. But often, these districts are the exception and not the rule. The Commission makes three recommendations to improve special district transparency and to better engage the public served by the districts:

Recommendation 9: The Legislature should require that every special district have a website.

Key components should include:

- ***Name, location, contact information***
- ***Services provided***
- ***Governance structure of the district, including election information and the process for constituents to run for board positions***
- ***Compensation details – total staff compensation, including salary, pensions and benefits, or a link to this information on the State Controller's website***
- ***Budget (including annual revenues and the sources of such revenues, including without limitation, fees, property taxes and other assessments, bond debt, expenditures and reserve amounts)***
- ***Reserve fund policy***
- ***Geographic area served***
- ***Most recent Municipal Service Review***
- ***Most recent annual financial report provided to the State Controller's Office, or a link to this information on the State Controller's website***
- ***Link to the Local Agency Formation Commission and any state agency providing oversight***

Exemptions should be considered for districts that fall under a determined size based on revenue and/or number of employees. For districts in geographic locations without reliable Internet access, this same information should be available at the local library or other public building open and accessible to the public, until reliable Internet access becomes available statewide.

Building on this recommendation, every LAFCO should have a website that includes a list and links to all of the public agencies within each county service area and a copy of all of the most current Municipal Service Reviews. Many LAFCOs currently provide this information and some go further by providing data on revenues from property taxes

and user fees, debt service and fund balance changes for all the local governments within the service area. At a minimum, a link to each agency would enable the public to better understand the local oversight authority of LAFCOs and who to contact when a problem arises.

Recommendation 10: The State Controller’s Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities.

Over the course of this study, the Commission utilized data available on the State Controller’s website to attempt to draw general conclusions about independent special districts, such as overall revenues, number of employees and employee compensation. Presently, it is difficult to do this without assistance as information for independent districts is mixed with various other entities.

Recommendation 11: The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards.

The Commission heard anecdotally that the public does not understand special district governance, does not often participate or attend special district board meetings and often does not know enough about candidates running to fill board positions. Often, the public fails to cast a vote for down-ballot races. Two county registrars provided the Commission information that showed in many instances those who voted for federal or statewide offices did not vote for local government officials at the same rate, whether they were city council positions, special district positions or local school or community college district positions.

What is the Role for Healthcare Districts?

The Commission found in its review that special districts were as diverse as the services provided and the millions of Californians served. To gain deeper insight on one type of local government service provider, the Commission took a closer look at an often-controversial group: healthcare districts that no longer operate hospitals. These entities struggle to explain their relevance within the rapidly evolving healthcare industry,

which emphasizes preventative care over hospitalization. Amid uncertainty about the future of the Affordable Care Act, many of these districts claim they are carving out new roles in preventative care. Yet the Legislature, local grand juries, LAFCOs and healthcare analysts continue to question their relevance and need to exist. Presently, just 37 of 79 California healthcare districts operate 39 hospitals, mostly in rural areas with few competitors or other alternatives – and few suggest the need to dissolve those districts.

Controversy tends to afflict districts in former rural areas that became suburbanized in recent decades and grew into competitive healthcare markets. The 2015-16 legislative session included a rash of legislation that considered whether to force district dissolutions or modify district boundaries – even though those decisions are the responsibility of LAFCOs. Nonetheless, most healthcare districts officials continue to maintain they are more flexible than counties in defining priorities and are pioneering a new era of preventative care under the umbrella of “wellness.” Officials say their districts are misunderstood by critics who lack understanding about how much the healthcare landscape is changing. They also say that local voters generally support their local missions and how they allocate their share of property taxes in the community.

As part of its special districts review, the Commission convened a two-hour advisory committee with experts to shed light on healthcare districts. During the course of the Commission’s study, the Association of Healthcare Districts convened a workgroup to develop recommendations, in part, in response to legislative scrutiny. These recommendations were considered and discussed during the November advisory committee meeting. Participants analyzed whether counties or healthcare districts are best positioned as local and regional healthcare providers and discussed the role of LAFCOs in consolidating, dissolving or steering healthcare districts toward more relevant roles. During the meeting Commissioners also pushed districts to share and adopt best practices and define better metrics to measure what they are accomplishing with their shares of local property taxes. Three Commission recommendations arose from the discussion as well as numerous interviews with experts during the study:

Recommendation 12: The Legislature should update the 1945 legislative “practice acts” that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s.

Experts widely agree that statutory language in the acts no longer reflects the evolution of healthcare during the past seventy years, particularly the shift from hospital-based healthcare to modern preventive care models.

Recommendation 13: The Legislature, which has been increasingly inclined to override local LAFCO processes and authority to press changes on healthcare districts, should defer these decisions to LAFCOs.

LAFCOs have shown successes in shaping the healthcare district landscape and should be the primary driver of change. Given the controversies over healthcare districts, the California Association of Local Agency Formation Commissions and LAFCOs should be at the forefront of studying the relevance of healthcare districts, potential consolidations and dissolutions of districts. To repeat a theme of Recommendation 1, the Legislature should retain its authority to dissolve healthcare districts or modify boundaries, but this authority should be limited to cases in which local political elites are so intransigent or negligent – or so beholden to local power structures – that some form of higher political authority is deemed necessary.

Recommendation 14: The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves.

A Commission advisory committee meeting discussion clearly showed that not enough thought or interest has been assigned to sharing what works best in rural, suburban and urban areas among members. The association should formally survey its members and collectively define their leading best practices and models for healthcare, as well as guidelines to improve the impacts of grantmaking in communities.

Front-line Roles for Climate Change Adaptation

At the Commission’s August 25, 2016, hearing, Chair Pedro Nava asked a simple question of special district attendees vigorously defending their need for robust reserve funds:

How are they assessing future climate change impacts when amassing reserves for long-range infrastructure spending? That question, rooted in the Commission’s 2014 climate adaptation report *Governing California Through Climate Change*, became the genesis of a deeper exploration of awareness of and preparations for climate change among special districts. In an October 27, 2016, hearing focused on special districts efforts to adapt to climate change, the Commission learned that:

- Special districts, even while vastly outnumbering cities and counties in California, have generally not participated at the levels of cities and counties in the state’s emerging climate adaptation information gathering and strategizing. Often that is because they lack land-use authority. Nonetheless, it is critical that their experienced voices be at the table.
- Many larger infrastructure-intensive water, wastewater and flood control districts stand at the forefront nationally in preparing for the varying, changing precipitation patterns – too much or too little water – at the heart of anticipated climate change impacts.

The Commission found it encouraging that many special districts are reducing the need for imported water by diversifying supplies and producing vastly more recycled water. Districts also are steering more stormwater runoff in wet years into groundwater recharge basins for use in dry years. The actions that all agencies must eventually take are already being done by some. The Commission agreed that these leading-edge actions and infrastructure spending strategies represent models for other districts to follow. Accordingly, the Commission makes six recommendations focused on climate change adaptation:

Recommendation 15: The Legislature should place a requirement that special districts with infrastructure subject to the effects of climate change should formally consider long-term needs for adaptation in capital infrastructure plans, master plans and other relevant documents.

Most special districts, especially the legions of small districts throughout California, have their hands full meeting their daily responsibilities. Many have few resources and little staff time to consider long-range issues, particularly those with the heavy uncertainty of

climate change adaptation. Making climate change a consideration in developing capital infrastructure plans and other relevant planning documents would formally and legally elevate issues of adaptation and mitigation, especially for districts where immediate concerns make it too easy to disregard the future.

Recommendation 16: The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program’s adaptation information clearinghouse being established within the Governor’s Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state’s current Fourth Assessment of climate threats, a state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.

The OPR clearinghouse promises to be the definitive source of climate adaptation planning information for local governments throughout California. At the Commission’s October 27, 2016, hearing, an OPR representative invited more district participation in state climate adaptation processes. It is critical that special districts and their associations assume a larger participatory role – both within state government and among their memberships – to expand the knowledge base for local governments statewide.

Recommendation 17: The state should conduct a study – by either a university or an appropriate state department – to assess the effect of requiring real estate transactions to trigger an inspection of sewer lines on the property and require repairs if broken.

The responsibility to safeguard California and adequately adapt to climate change impacts falls on every resident of California. This begins at home with maintenance and upgrading of aging sewer laterals. Requiring inspections and repairs during individual property transactions is an optimum way to slowly rebuild a region’s collective wastewater infrastructure in the face of climate change. At the community level, repairs will help prevent excess stormwater during major climate events from overwhelming wastewater systems and triggering sewage

spills into public waterways. The Oakland-based East Bay Municipal Utility District has instituted an ordinance that requires property owners to have their private sewer laterals inspected if they buy or sell a property, build or remodel or increase the size of their water meter. If the lateral is found to be leaking or damaged, it must be repaired or replaced. The state should consider implementing this policy statewide.

Recommendation 18: State regulatory agencies should explore the beginnings of a new regulatory framework that incorporates adaptable baselines when defining a status quo as climate impacts mount.

With climate change what has happened historically will often be of little help in guiding regulatory actions. State regulations designed to preserve geographical or natural conditions that are no longer possible or no longer exist already are creating problems for special districts. Wastewater agencies, for example, face conflicting regulations as they divert more wastewater flows to water recycling for human needs and less to streams historically home to wildlife that may or may not continue to live there as the climate changes. While it is not easy for regulators to work with moving targets or baselines, climate change is an entirely new kind of status quo that requires an entirely new approach to regulation.

Recommendation 19: The California Special Districts Association, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.

Special districts are uniquely suited to communicate with and help prepare millions of Californians for the impacts of climate change. Nearly all have public affairs representatives increasingly skilled at reaching residents through newsletters, social media and public forums. District staff grapple constantly with new ways to increase their visibility. Many will find they can build powerful new levels of public trust by helping to prepare their communities for the uncertainty ahead.

Recommendation 20: The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.

Water, wastewater and flood control districts are already bringing numerous agencies to the table to pool money, brainpower and resources for big regional projects. The East Bay Municipal Utility District has arrangements with many Bay Area and Central Valley water agencies to identify and steer water to where it is most needed for routine demands and emergencies alike. The Metropolitan Water District and Sanitation Districts of Los Angeles County also increasingly pool their joint resources to steer more recycled water to groundwater recharge basins for dry years. Likewise, the Santa Clara Valley Water district and other state and federal agencies are collectively planning and funding 18 miles of levees to protect the region from sea level rise. These partnerships among special districts and other government agencies clearly hint at what will be increasingly necessary as climate impacts begin to mount.

Introduction

“Celebrated as the best example of democracy, cursed as the worst form of fragmented government, and generally misunderstood even by the experts, special districts are California’s unique contribution to local government.”

What’s So Special About Special Districts? 2010. Senate Local Government Committee.

At any given moment in any random neighborhood, millions of Californians whirl through their lives within the boundaries of special districts. During their relentless proliferation over the past 75 years or more they have become the backbone of California’s vast public services delivery system and the state’s most common form of local government. The largest of these districts, each individually established by their inhabitants to perform a specific function, provide healthcare, water delivery, transportation, flood control and fire protection. Hundreds more special districts operate airports, harbors, cemeteries, sewer systems, parks and libraries. Still more keep the street lights on, limit the spread of mosquitoes and operate memorials and halls for veterans.

Typically, most residents living in these districts know little about them, how they operate, who runs them and what they pay in taxes or fees to support them. Yet California has an estimated 2,071 independent special districts – many with the power to collect property taxes, to send monthly bills and collect fees and frequently to make voters scratch their heads over a list of unfamiliar candidates during election time.

Generally, it is the state’s 482 cities and 58 counties that attract all the media and social media attention with their noisy, divisive issues and controversial political campaigning. But it is the quiet, below-the-radar special districts where most of the grunt work and local governing of California gets done.

The Commission’s Study Process

The Commission, in keeping with its mission to seek economy and efficiency in California government, decided at its May 2016 business meeting to undertake a fresh look at the vast, interwoven political landscape of special districts that it first reviewed in 1999 and 2000. A new generation of Commissioners studied the basics of special districts and examined changes spurred by the Commission’s 2000 report. In following up during 2016 and 2017, they evaluated districts generally, but also specifically through the present political uncertainty regarding healthcare delivery and the lens of infrastructure planning for climate change.

“Districts were popular because they could be put in place quickly, had flexible boundaries, and could efficiently provide those specific services in greatest need without saddling citizens with creation of complex municipal bureaucracies. They were a perfect fit for the dominant, low-density suburban lifestyle that characterized California almost from the beginning.”

Growth Within Bounds. January 2000. Commission on Local Governance for the 21st Century.

Similarly to the 2000 study, this review largely focused on the 2,071 independent special districts. An August 25, 2016, introductory hearing helped the Commission explore the broad background of special districts and consider recommendations about their structures, operations and oversight. An October 27, 2016, hearing focused more narrowly on how special districts, as critical front-line service providers, are mapping out climate adaptation strategies, investing their financial reserves and budgeting for long-range infrastructure to prepare for anticipated climate impacts across California.

Additionally, a November 16, 2016, advisory committee meeting zeroed in on numerous controversies that continue to arise within the Capitol around healthcare districts and whether those districts without hospitals should continue to exist. The Commission examined the historic roles of hospital districts in California, noted the disappearance of many district hospitals and asked if redesigned successor healthcare districts remain a viable entity in an industry that has shifted from disease-focused care to an emphasis in preventative care. Finally, on June 22, 2017, the Commission held a roundtable meeting to discuss potential recommendations for this report, with 17 invited participants and approximately 40 others who provided input and comments to help guide the Commission's review.

During the course of the study, the Commission and staff interviewed dozens of special district officials and members of their trade associations, government analysts, legislative consultants, members of special district oversight bodies and many others. Staff also toured Sierra

Nevada water delivery infrastructure that supplies water to East Bay Municipal Utility District customers.

Throughout the Commission's study process, the evolution of special districts was viewed through California's spectacular population growth since World War II. The Commission learned that newcomers created special districts by the hundreds, then thousands, to bring basic public services to developing rural areas and small towns as the California population rose from nearly seven million in 1940 to 20 million in 1970 and to nearly 40 million today. Many quiet places with ranches and single stoplights morphed into bustling suburbs, cities and urban counties during a frenzy of residential, commercial and industrial development. Often, competing agencies were established to fight fires, build parks and control floodwater. Today, this vast interlaced and unruly governing landscape of city, county and special district service providers is locked into place, the vestige of seven decades of hurry-up growth and hyperactive local agency creation.

Institute for Local Government: A Guide to Special Districts

Special districts are public agencies created to provide one or more specific services to a community, such as water service, sewer service, parks, fire protection and others.

- **Independent Special Districts.** Many special districts operate under a locally elected, independent board of directors, which oversees district functions. These kind of special districts are called "independent special districts." About two-thirds of special districts are independent.
- **Dependent Special Districts.** Sometimes the governing board of either a city or county will also serve as decision-makers for a special district. These kinds of special districts are called "dependent special districts." About one-third of special districts are dependent.

Most special districts perform a single function, such as water service, parks and recreation, fire protection, pest abatement or cemetery management. Other districts have multiple functions, such as community service districts. Some special districts provide services for residents in both cities and counties, while others provide services only for residents who live outside city boundaries in the unincorporated areas.

In California, cities must be located in one county, and city boundaries may not cross county lines. On the other hand, special districts may cross city and county boundaries. For example, the Metropolitan Water District of Southern California serves residents in six different counties and most of the cities within those counties.

Special districts generate revenue from several sources including property taxes, special assessments, and fees.

- **Enterprise Special Districts.** These agencies run much like business enterprises and provide specific benefits to their customers. They are primarily funded by fees paid by service recipients.
- **Non-Enterprise Special Districts.** These deliver services that provide general benefits to entire communities. They are primarily funded by property taxes.

Source: Institute for Local Government. "About Special Districts." Sacramento, CA. <http://www.ca-ilg.org/post/about-special-districts>. Accessed July 18, 2016.

The Commission quickly learned that the status quo is a formidable political force and amply able to quash reform efforts. As it began its 2016-2017 study, it assessed the failure of many reformers during the past quarter century to spur mass consolidation of older special districts or simply absorb them into cities and counties. Consistently, in reports, studies and books, they have argued for centralizing government to create efficiencies and make optimum use of tax revenues. Yet special districts largely continue to prevail. They seem to possess advantages – or conversely, lack wide-scale harms – that make them mostly tolerable to their constituents in the larger scheme of governing and able to forestall movements to purge them on a significantly large scale. Likewise, in California as elsewhere, voters still tend to prefer government that’s closest to them.

The Little Hoover Commission, in lieu of reemphasizing past reform perspectives that California is broken, cracking up and encrusted with too much multilayered or “barnacled” government, elected to provide a newer understanding of districts’ collective role, shine fresh light on old and emerging issues and find ways for the state to oversee better order among local and regional service providers. The Commission, as it assessed the role of special districts in a state that has largely matured in its growth patterns, considered potential ways to clean up poorly-organized local and regional governing systems lingering from chaotic episodes of growth and better prepare them for a new kind of California – one that is:

- Much more densely populated and urban
- Implementing concepts of wellness to create a healthier population and greatly reduce catastrophic healthcare costs, and
- Increasingly focused on economic stability and reliable service delivery as climate impacts begin to mount.

Public hearing witnesses and advisory committee meeting participants are listed in the appendices.

Throughout this study, Commission received much valuable input from interviews and correspondence with special district officials, legislative advocates, government analysts and other experts on governing California. All gave generously of their time, providing great benefit to

the Commission. The findings and recommendations in the report, however, are the Commission’s own.

Background

Special districts are a unique creation of California, a governing mechanism dating to the Legislature’s Wright Act of 1877 authorizing Stanislaus County farmers to form the Turlock Irrigation District and capture Sierra snowmelt to water their crops. Water districts led the way in formation of special districts in a vast rural state with approximately 1.5 million people in 1900. In 2017, with a population nearing 40 million, they still supply approximately 90 percent of the developed water in California.⁴

Cemetery districts likewise came into being when California’s population growth overwhelmed the traditional role of churches in providing and maintaining burial grounds.⁵ Nearly 250 cemetery districts still exist statewide.⁶ New districts in the 1930s built levees and airports and brought electricity to residential areas. Yet most of today’s 2,071 independent districts – the focus of this review – came into being after World War II to accommodate millions of newcomers who migrated to the state’s bounty and warm climate. Hospital districts formed to provide intensive medical care. Library districts put books on the shelves. Harbor districts created shelter for fishing boats and new community services districts took on most of the responsibilities of a small town with fire trucks, parks and night lighting.

The state’s largest districts tend to be located in long-developed coastal areas and include such regional giants as the Metropolitan Water District, Santa Clara Valley Water District and East Bay Regional Parks District. Most of the smaller districts, which are more narrowly focused and limited in service scope, are located in more recently developed inland areas of California.⁷

Proponents of special districts say their best quality is the ability to concentrate on one service. A city parks department is one among many competing for funding during budget season – and may share a city council meeting agenda with dozens of items on proposed shopping centers, gang prevention, pavement conditions, flooding and the homeless. A special district

has a narrowly-defined budget and a singular focus for interested constituents during its public meetings.

“By focusing only on providing the highest level of emergency services to the communities they serve, they avoid being sidetracked or competing for resources with other governmental services,” North Tahoe Fire Protection District Chief Michael Schwartz told the Commission in August 25, 2016, testimony. “Along with a focused mission comes a certain level of organizational expertise, do one thing, do it efficiently and do it well.”

One example from late 2015 testifies to the flexibility enjoyed by single-purpose special districts in contrast to cities, counties and state or federal agencies. When Amador and Calaveras counties were overwhelmed after the 70,000-acre Butte Fire and the federal government couldn’t immediately move to begin watershed restoration, the East Bay Municipal Utilities District (EBMUD) board voted to loan the U.S. Bureau of Land Management (BLM) \$1 million for helicopter time to quickly re-seed the Mokelumne River watershed which drains into the district’s Pardee and Camanche water storage reservoirs. “We really pushed the envelope of what could be done. We were like ‘let’s get going, let’s get going,’” said Chris Swann, ranger supervisor of EBMUD’s Mokelumne River Watershed and Recreation District. Unfortunately, said Mr. Swann, the BLM bureaucracy could not find a way to accept the loan to begin a response.⁸

Special Districts: How Many Are There?

Number of California Local Government Entities

- School Districts: 1,022
- Cities: 482
- Counties: 58
- Independent special districts: 2,071
- County-run dependent special districts (including more than 800 county service areas): 1,495
- City-run dependent special districts: 254
- Joint Powers Authorities and Nonprofit Corporations: 957

Number of Independent Special Districts by Category

- Airport districts: 10
- Water districts: 132
- Water storage districts: 8
- Citrus pest districts: 9
- Community services districts: 321
- Cotton pest abatement districts: 1
- County sanitation districts: 37
- County water districts: 169
- Fire protection districts: 346
- Harbor districts: 7
- Healthcare districts: 79
- Irrigation districts: 92
- Levee districts: 13
- Library districts: 13
- Mosquito control and vector control districts: 47
- Municipal utility districts: 5
- Municipal water districts: 37
- Park and recreation districts: 95
- Police protection districts: 3
- Port districts: 5
- Public cemetery districts: 248
- Public utility districts: 54
- Reclamation districts: 150
- Resource conservation districts: 99
- Sanitary districts: 66
- Transit districts: 17
- Water conservation districts: 13
- Water replenishment districts: 2
- Veterans memorial districts: 27

Sources: See endnote 73.

“What makes special districts an effective and efficient form of local governing is the empowerment of local service specialists with the revenue and budget authority. When you empower the specialists with the authority combined with the resources necessary to get the job done they will do it in a focused manner that results in efficiency and effectiveness. They will be more prudent, more innovative and more sustainable. As this Commission looks forward to its next hearing let’s not undermine this unique and invaluable tool, the independent special district, that local voters throughout California have established to make a difference in their communities. Let’s instead work together to strengthen these local specialists.”

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association, addressing the Commission August 25, 2016.

State Auditor Elaine Howle on the Strengths and Challenges of Special Districts

Strengths: “Special districts are typically formed to provide specific services and serve certain areas or regions that are not necessarily tied to a city or a county and thus, often understand their constituents’ needs better than a government entity that provides many services and may be a bit further removed from the constituents. Special districts may be able to customize services and provide more tailored services to their customers.”

Challenges: “Special districts may have less resources or administrative staff than a city, county or state entity. With limited resources it is sometimes difficult to incorporate management controls and proper oversight that mitigate errors, irregularities, or mismanagement.”

Source: California Special District Magazine. October 15, 2015. “Interview with State Auditor Elaine Howle: Auditing in the Course of Checks and Balances.” Sacramento, CA. <http://www.csdanet.net/districts-in-the-news/interview-with-state-auditor-elaine-howle-auditing-in-the-course-of-checks-and-balances/#sthash.8PmlL0z2.dpuf>. Accessed July 18, 2016.

Numbers Rising Nationally, but Declining in California

Nationally, the proliferation of special districts is increasing, numbering 38,266 in the U.S. Census Bureau's 2012 Census of Governments, and raising familiar concerns about too much government and too little oversight.⁹ In California, the number has peaked, however, and is falling. The California Special Districts Association (CSDA), testifying at the August 25, 2016, hearing and citing 2012 Census of Governments data stated:

- The number of special districts in California has declined 5 percent since a 1997 peak, while the number nationally increased 10 percent since 1997.
- Thirty-three states have more special districts per capita than California.

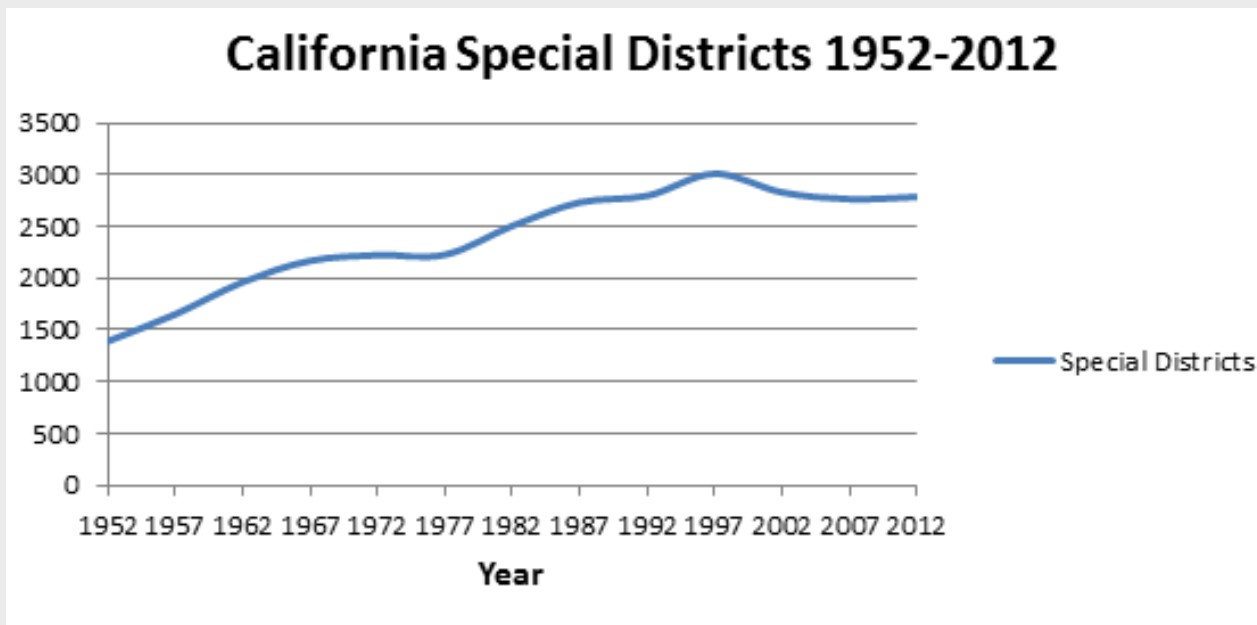
- California has 7.5 percent of the nation's special districts with 12 percent of the nation's population.

The leveling-off trend continues, according to the CSDA, which reported a half dozen district consolidations and dissolutions from mid-2015 through the end of 2016. They include:

- Lompico Water District in Santa Cruz County
- Los Trancos Water District in San Mateo County
- Rabb Park Community Services District in Amador County
- Del Rio Woods Recreation and Park District in Sonoma County
- Gold Springs Lighting District in Tuolumne County
- Niland Fire Protection District in Imperial County.

Slight Declining Trend in Number of Special Districts

After 75 years of relentless formation and growth to accommodate the rapid development of California, the number of special districts within the state has leveled off.



Source: U.S. Department of Commerce. U.S. Census Bureau. Census of Governments. "List & Structures of Governments. Number of Special Districts." Washington, D.C. https://www.census.gov/govs/go/number_of_special_districts_by_county.html. Accessed July 18, 2016.

The Imperial County Local Agency Formation Commission moved to dissolve the Winterhaven Fire Protection District, in May 2017. The district had ceased to provide fire protection to the small community and its board had stopped meeting regularly, according to a May 2017 report from the LAFCO's executive officer.¹⁰ Studies also were underway to consider dissolving the West Contra Costa Healthcare District and Rollingwood Wilart Recreation and Park District in Contra Costa County, according to CSDA analysts.¹¹ Likewise, representatives of five Tuolumne County special districts gathered on January 18, 2017, to discuss possible consolidation of their sanitary, parks, cemetery, lighting and fire districts – with combined annual revenue of \$2.1 million – into a single community services district. “I think through consolidation we would be more efficient,” said one board member quoted by the local newspaper. “We may spend the same amount of money, but I think we would be increasing services to the community.”¹²

In May 2017, the Commission received a copy of a letter from four water districts and one flood control and water conservation district in the Ukiah Valley of Northern California seeking assistance from the Governor in resolving water rights issues so that the five districts could voluntarily consolidate into one Joint Powers Authority. The letter highlighted the challenges that willing water districts working in conjunction with their LAFCO encounter in attempt to consolidate to become more efficient. The districts hoped to provide a statewide model for voluntary water district consolidation using the LAFCO process.¹³

The special districts community maintains there are an unknown number of inactive districts statewide – all candidates for further rounds of dissolutions. A handful of them, according to CSDA, include the Alpine Resource Conservation District, Corcoran District Hospital, Mootamai District Hospital, Odessa Water District and Reclamation District 2120, Silver Creek Drainage District, Valley Health System Healthcare District and Willow Springs Water District.¹⁴ The California Association of Local Agency Formation Commissions (CALAFCO) suggested at the Commission's August 25, 2016, hearing that its member agencies would benefit from having statutory authority and funding to unilaterally dissolve inactive districts without protest votes and costly elections. Presently, when either a LAFCO or a district (even an inactive one) formally initiates its own dissolution residents can protest and upend the process. Legislation to resolve this issue is

currently pending consideration by the Legislature.

What Californians Can Find Online About Special Districts

Special districts report financial data annually to the California State Controller and California State Treasurer for public review. The Controller's office annually updates the number of independent districts and their employees and reports their statewide and individual salaries and wages paid per district. Data on individual districts can be found by entering the name of the district. Many special districts also provide links to the State Controller's website. One challenge, as described in greater detail later in this report, is that the State Controller combines information on independent special districts, joint powers authorities and nonprofit corporations making it difficult to assess trends in the aggregate. Upon request from the Commission, the State Controller provided the following details on the 1,895 independent special districts that have data available on the State Controller's website¹⁵:

- These districts have revenues of \$21.5 billion.
- These districts employ 90,461 people.
- The total payroll for these districts was nearly \$6 billion.

The Controller also updates a Top 250 list of the largest districts, an activity spurred by legislation codifying a recommendation in the Little Hoover Commission's 2000 report. For historical information, the Controller's Office maintains a list of annual financial transaction reports from fiscal year 1995-1996 through 2011-2012. In 2014, the Controller's Office updated its financial reporting to an open data format, allowing the public to sort and compare data in a variety of ways. The Treasurer's office tracks special districts' outstanding debts on its *DebtWatch* website. According to the State Treasurer's *DebtWatch* website, California special districts issued \$10 billion in debt from July 2016 to July 2017.

The California Special District Association also has a wealth of information on special districts on its website, including an interactive map of California that includes the name and contact information for a majority of special districts by county with links to many local district websites.

Relevant Websites to View Special Districts Data

Special Districts Annual Report – Top 250 Districts
<http://lgrs.sco.ca.gov/sb282/index.asp>

Salary Database for Special Districts
<http://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistricts.aspx>

Top 1,000 Special District Salaries
<http://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistricts.aspx?fiscalyear=2015&rpt=2&chart=1>

Annual Special District Financial Transaction reports 1995-2011
http://www.sco.ca.gov/ard_locarep_districts.html

Special Districts By the Numbers Open Data Website
<https://bythenumbers.sco.ca.gov>

Debtwatch (California State Treasurer’s Office)
<http://debtwatch.treasurer.ca.gov>

Special Districts Map (California Special Districts Association)
<http://www.csda.net/special-districts/map/>

A Brief Recap: The Commission’s 2000 Study and Changes Since

In a May 3, 2000, letter to Governor Gray Davis and the Legislature following its initial year-long study, the Commission summarized that it found special districts were slow to change their ways, invisible to most citizens and often lacking in scrutiny until it was too late to head off scandal. “Ironically, these governments that are physically closest to their communities are oftentimes unknown to the people they serve. And in the absence of community involvement, the mechanisms for public accountability are dulled and the value of public scrutiny is lost.”

Wrote then Commission Chair Richard R. Terzian: “It also is ironic that when they were created, these districts were tailored to the needs of their communities. But as those communities have grown and changed, the districts themselves have been slow to change their boundaries, functions and governance to reflect their communities.” In its 2000 report, the Commission criticized excess

financial reserves held by some “well-heeled” districts, suggested that consolidating small districts into larger districts would yield efficiencies and stated that Local Agency Formation Commissions (LAFCOs) needed to be better-equipped and tougher to bring more order to the state’s checkerboard of districts.

“When special districts first emerged, they were state-of-the-art government. All of their attributes were tailored to the unique needs of their communities – their boundaries, their functions, their governance and their finances ... Many of these independent government entities continue to evolve in ways that increase their value and relevance to the citizens they serve. But others are reluctant to change and to open themselves to scrutiny. Their boundaries are meaningless relics of communities that have lost distinctions. They spend money on their defined missions, regardless of other community needs. In some cases, they hold vast financial reserves that have simply not been publicly examined. In extreme cases, the governing boards are only “governing” contracts with private service providers.

Little Hoover Commission. “Special Districts: Relics of the Past or Resources for the Future.” May 3, 2000.

The Commission’s five major recommendations in 2000:

- The Governor and Legislature should enact legislation to make special districts more visible and accountable to those they serve.
- The state should provide LAFCOs the direction and resources necessary to make them a catalyst for the effective and efficient evolution of independent special districts.
- The Governor and Legislature should establish a program at the California Policy Research Center, or similar institute, to equip policymakers and the public with tools necessary to assess and guide the organization of independent special districts. The program should develop guidelines and protocols for special district consolidations.

It also should study outcomes of consolidations and reorganizations, establish a cadre of trainers and develop performance measures.

- The Governor and Legislature should enact policies to ensure prudent management of special district reserve funds. Those reserves also should be incorporated into regional and statewide infrastructure planning.
- State policymakers should consider whether continuing to allocate property taxes to enterprise districts which bill their customers for services provided is appropriate.

The Commission's May 2000 report and recommendations have spurred few large-scale structural changes in the arena of special districts. There was no jump start in consolidations. There was no alteration of property tax allocations to enterprise districts. Explaining the lack of action, policymakers within the orbit of special districts told the Commission in 2016 that property tax policy is too intricate and convoluted to change allocations without tampering with Proposition 13. They also defended district reserve funds as a tool to pay for infrastructure or special programs such as the Metropolitan Water District's drought-inspired \$350 million lawn removal initiative in Southern California.¹⁶ Many LAFCOs, meanwhile, remain as resource-challenged as they were in 2000, continuing to lack adequate funds to more aggressively initiate and study formation, dissolution or consolidation of districts.

Still, August 25, 2016, hearing witnesses, as well as others in interviews, told the Commission its 2000 report prodded many smaller changes and results: Among them:

- Numerous county grand juries conducted their own reviews of special districts following the Commission's report. These grand juries documented many of the same issues locally as those raised by the Commission. Many questioned reserve levels and district spending and suggested district consolidations.
- Governor Davis in 2001 signed legislation – SB 282 (Dunn) – requiring the California State Controller to publish an annual online report of 250 special districts with the largest revenues. This annual

report now provides the public specific data about districts' reserves, revenues, expenditures and cash and investments on hand.¹⁷

- The California Special Districts Association in 2001 issued a publication to its members which cited Little Hoover Commission concerns about reserves. It outlined methods to establish "prudent" reserves. The association updated its "Special District Reserve Guidelines" in 2013.
- The CSDA's Special District Leadership Foundation, formed in 1999, now issues certificates of excellence to districts that adhere to principles identified in the Commission study – ethics, transparency, accountability, efficiency and good policy choices.¹⁸
- Most special districts now have websites – unlike 2000 – and post notices of board meetings, minutes and financial and budget information online. Water districts, especially, make strong use of social media to engage customers and keep them in the know.¹⁹
- The Cortese-Knox-Hertzberg Act of 2000 – AB 2838 (Hertzberg) – authorized Local Agency Formation Commissions to occasionally analyze the organization and relevance of individual special districts. Most LAFCOs are doing these studies, called Municipal Service Reviews, according to state LAFCO officials.
- LAFCOs also have become more independent of other local government organizations that could sway their decisions. In 2000, some 70 percent of LAFCOs relied on county employees for staff. In 2016, approximately one-third rely on county employees.
- The number of county LAFCOs with special district representatives on their governing boards has increased from 25 to 30 since the Commission's 2000 report. In 2017, the California Special Districts Association and California Association of California Local Agency Formation Commissions is co-sponsoring legislation to remove a legal constraint that requires a majority of special districts within a county to pass resolutions favoring special district

representation on their LAFCO within a one-year period. The proposed change would allow a one-time election process where a majority of districts could vote on the question.

Appropriate State Oversight

The Legislature gave life to special districts in 1877 and retains the power to create them to meet new needs, dissolve them when they become irrelevant and adjust their boundaries to meet changing circumstances. Generally, the Legislature is free to intervene in operations of special districts any way it sees fit – and has repeatedly done so.

Many outside the Capitol told the Commission the Legislature increasingly is too quick to override local oversight of special districts – and ill-informed while weighing issues complicated by fractious local politics. Yet Capitol insiders say local oversight processes for special districts can be interminably slow and ineffective. It often requires higher political authority to break logjams, shut down troubled districts, consider the fairness of property tax allocations and scrutinize the scale of financial reserves.

The standoff is a constant in Capitol politics. What, indeed, is appropriate state oversight for special governing entities that are local and regional in scale, run by locally-elected boards, subject to local oversight authorities and, in theory, reflecting the wishes of local constituents?

It Begins with Local Agency Formation Commissions (LAFCOs)

The Commission’s 2000 report found LAFCOs were slow, underfunded and even unreliable when captured by local politics – and some still are. A frustrated

Legislature has reacted by bypassing LAFCOs altogether through legislation to directly create, expand, dissolve or alter the operations of special districts. Governor Schwarzenegger and Governor Brown have largely approved reorganization bills that reach their desks. An uptick in these types of bills introduced during the 2015-2016 legislative session signaled the LAFCO process was not living up to its potential equally across the state.

The Legislative action however raises red flags among local government watchers. One 2016 Senate Governance and Finance Committee analysis stated that “continuing to enact special legislation circumventing the LAFCO process for individual local government boundary changes and reorganizations may set a precedent that invites regular legislative involvement in all manner of disputes over local service delivery and boundary issues.”²⁰

Despite marked improvements since the last major reform effort in 2000, the enactment of the Cortese-Knox-Hertzberg Reorganization Act of 2000, the LAFCO process has generally not spurred an abundance of dissolutions or consolidations of special districts.

In August 25, 2016, hearing testimony, Pamela Miller, executive director of the California Association of Local Agency Formation Commissions (CALAFCO) told the Commission her member agencies oppose bills that bypass LAFCO authority and are increasingly being introduced in the Legislature. She also cited negative implications of the Legislature powerfully inserting itself into purely local disputes and issues, often of late involving healthcare districts, an issue discussed more fully later in this report.

What is a LAFCO and What Does it Do?

Many consider county Local Agency Formation Commissions, in theory, one of the best ideas of any state in helping guide the orderly growth of local government as communities develop and change. In practice, this task is often made much more difficult by local politics that can occasionally override the broader public interest. LAFCOs are dominated by local elected officials with varying ideologies about accommodating growth or development while the institutions are sometimes thought to be controlled by various city or county factions favorable or unfavorable to developers. A dissenting vote can lead to a member's removal. (The California Association of Local Agency Formation Commissions testified at the August 25, 2016, hearing that it would like to see statutory authority providing fixed terms for LAFCO members to ease political pressures in controversial local votes).

LAFCOs exist in each of California's 58 counties and are generally governed by five or seven members that include two county supervisors, two city council members and one public member – and in 30 counties, also two special district representatives. In most of those 30 counties, the cities, counties and special districts each pay one-third of a LAFCO's annual budget – though funding ratios can vary. In counties without special district representation cities and counties generally split the cost.

The Legislature and Governor Edmund G. "Pat" Brown created LAFCOs in 1963 as part of a tide of planning reforms enacted to prevent practices in which "many landowners engaged in leapfrog development – jumping far ahead of municipal boundaries and urban services to build subdivisions without central water and sewer systems," according to author William Fulton's "Guide to California Planning." Cities, wrote Fulton, "happily annexed distant property" and counties "permitted growth wherever landowners wanted to put it." LAFCOs were assigned to bring a rational view to these decisions, in essence, having the final say over city boundaries and also creation of special districts and their boundaries.

The Legislature has added many new responsibilities to LAFCOs since their creation. A 1993 reform law, AB 1335 (Gotch), gave LAFCOs the power to initiate consolidations among special districts while adding the option of including two special district members on LAFCOs.

Another major reform effort in 2000, the Cortese-Knox-Hertzberg Reorganization Act of 2000, AB 2838 (Hertzberg), gave LAFCOs authority to conduct reviews of the efficiency and effectiveness with which special districts deliver services. These are called Municipal Service Reviews (MSRs). While LAFCOs have no direct regulatory authority over special districts, these MSR's provide information to help districts improve their performance – and also serve as the basis for LAFCO decisions to recommend and take the initiative to consolidate or dissolve districts and make boundary changes. Local voters, however, have the final say on consolidations and dissolutions.

Sources: William Fulton. *Guide to California Planning*. Second Edition. Solano Press Books. 1999. Point Arena, CA. Pages 58-59, 76-77. Also, Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions. August 25, 2016. Written testimony to the Commission.

Recent Legislation Overriding LAFCO Authority in Special District Controversies

- SB 1374 (Lara), creating the Lower Los Angeles River Recreation and Park District without requiring the usual LAFCO study and approval process for new local government boundaries. Governor Brown signed the bill on September 22, 2016.
- AB 2414 (Garcia), allowing the Desert Regional Healthcare District in Riverside County to expand its boundaries into the eastern Coachella Valley without a full LAFCO review. Governor Brown signed the bill on September 21, 2016.
- AB 2471 (Quirk), expediting the dissolution of the Eden Township Healthcare District in Alameda County by ordering the LAFCO, under conditions specified in the legislation, to dissolve it. The bill was ordered to the Inactive File on August 29, 2016, at the request of Senator Loni Hancock, D-Oakland.
- AB 2737 (Bonta), bypassing LAFCO and the board of Eden Township Healthcare District to cap the district's administrative expenses at 20 percent of its annual revenue. Governor Brown signed the bill on September 21, 2016.
- AB 2470 (Gonzalez), requiring the San Diego County Water Authority to provide water outside its boundaries to the Sycuan Band of the Kumeyaay Nation if asked – bypassing LAFCO review and circumventing the annexation process. Governor Brown signed the bill on September 12, 2016.
- AB 3 (Williams), creating the Isla Vista Community Services District to administrate a long-neglected student-occupied neighborhood near UC Santa Barbara. The bill specifically prohibited the local LAFCO from disapproving the application to create it. Governor Brown signed the bill October 7, 2015.
- SB 88 (Committee on Budget and Fiscal Review), granting the State Water Resources Control Board power to bypass LAFCOs to force consolidation of local water districts to serve disadvantaged areas. Governor Brown signed the bill June 24, 2015.
- AB 2453 (Achadjian), establishing a special process to create a new Paso Robles Water District in San Luis Obispo County that included exceptions to the customary and statutorily-required LAFCO process. Governor Brown signed the bill September 16, 2014.
- AB 1232 (Huffman) allowing a special process for the consolidation of the Sewerage Agency of Southern Marin and its member districts, after notice and hearing, but without protest hearings. Governor Schwarzenegger signed the bill October 11, 2009.

Source: : Legislative Information System. Bill analyses.

“LAFCOs have been criticized for not doing enough when it comes to dissolving or consolidating districts. Simply reorganizing agencies does not necessarily improve services – ultimately, LAFCO recommendations are designed to improve the provision of service. Each district has its own funding approach and some have distinctly different levels of service. Consolidation or dissolution for the sake of change is not as simple or logical a path as one presumes and often leads to unintended consequences. LAFCOs must always recognize and respect that a special district board is locally elected and is accountable to its constituents when making local decisions, even if in stark contrast to a LAFCO recommendation.”

Pamela Miller, executive director, California Association of Local Agency Formation Commissions. August 25, 2016, testimony to the Commission.

In her testimony, Ms. Miller told the Commission that the Legislature is prone to ignore or override the local circumstances and conditions behind a particular special district dispute. She also said the extensive and time-consuming deliberations involved in LAFCO processes are necessary to ensure quality decision-making. The LAFCO studies required to consolidate, dissolve, change or create a district can take one to two years and cost thousands of dollars in staff time, she said. “The Legislature made the process very deliberative so it takes a while. A dissolution is messy. There are a lot of factors. What are the assets? Who will take over the assets and liabilities? It’s time-consuming and costly. Some entities think it’s less costly to run a bill through the state and nothing could be further from the truth,” she told the Commission.

Witnesses at the Commission’s August 2016 hearing and participants at the June 2017, advisory committee meeting suggested part of the reason for the inconsistent effectiveness of LAFCOs across California was insufficient funding. A small, one-time infusion of grant funding – particularly targeting the most critically needed reorganization studies by LAFCOs or smaller special districts – could lead to improved local governance.

Ms. Miller suggested that although ongoing funding to support LAFCO mandates is appropriate, she indicated CALAFCO fully supports a one-time infusion for LAFCOs to conduct certain activities.

She also acknowledged to the Commission that CALAFCO is seeking middle ground with the Legislature. “We are willing to work with the local government committees to look at LAFCO processes on what could be streamlined and still get the job done,” Ms. Miller said.

Several “nuts and bolts” types of fixes were proposed to the Commission during the study. Two recommendations – one that would make it easier for LAFCOs to dissolve inactive districts and another that would make it easier to add special districts to LAFCOs in the 28 counties where this currently is not the case, were introduced in the Legislature in 2017. The first bill was under consideration by the Legislature and the second was sent to the Governor’s desk in August 2017. Other proposed improvements including establishing fixed terms of service for LAFCO members and simplifying the consolidation and dissolution process.

Dealing with Property Tax Inequities

The Commission spent considerable time in 1999 and 2000 examining a peculiar aspect of special districts that stems from rushed efforts to address the 1978 voter-created property tax limit measure, Proposition 13. The Commission then – alongside several other prominent task forces at the time – recommended reforms for fairer, more equal and sensible property tax distribution among local service providers. None of it gained traction due to powerful public entities, including special districts, fearing lost revenue and defending their locked-in property tax shares. The Commission revisited the topic at its August 25, 2016, hearing and heard a whole new round of opposition and protest from special districts and their trade associations. This opposition was repeated during and following the Commission’s June 2017 advisory committee meeting. It is clear that opportunities for property tax reform and more equitable distribution locally are little better in 2017 than in 2000.

Some districts – such as water districts – collect property taxes *and* charge fees for services to their customers. This enables them to prosper, build strong reserves and

keep fees lower. Meanwhile, some neighboring water districts *can't* collect property taxes, have few reserves and must charge customers higher fees.

“The allocation of property tax revenues is difficult to administer and understand, complicating the work of policymakers and confounding taxpayers. Formulas for allocating property taxes enacted in the late 1970s often fail to reflect the contemporary needs and desires of local communities. Formulas are now locked in place that provide subsidies to some districts, prevent others from delivering services that the public wants, and preclude understanding by the public of what their property tax buys and from whom.”

Special Districts: Relics of the Past or Resources for the Future. Little Hoover Commission. May 3, 2000.

This inequality prevails throughout California’s special districts landscape. It is due to AB 8, a quick, reactive measure which passed in 1979 and has defied solution ever since. AB 8 locked in a tax system in which special districts that levied their own property taxes in the mid-1970s get a similar share of their county’s 1 percent property tax rate today. Districts that didn’t levy property taxes in the 1970s – often due to politically-conservative boards – get no shares of their county’s property taxes. This inability to redistribute county property taxes for new program realities means libraries and parks may deteriorate due to taxing decisions made in the 1970s while nearby fire districts buy the best, newest fire trucks and healthcare districts give tax-funded grants to sometimes-questionable recipients – all while also maintaining reserve funds.

August 25, 2016, hearing witness Michael Coleman, a Davis-based government finance expert speaking for himself and not on behalf of his clients, told the Commission that special districts shouldn’t routinely be able to simultaneously receive property taxes and charge customer fees. He testified that the current system (inherited from the state government’s hurried, clumsy implementation of Proposition 13) often increases a region’s tax load – a struggling public library system must seek an additional parcel tax, for example, even as a nearby water district has seemingly outsized financial reserves.

Mr. Coleman acknowledged the difficulty of reforming an entrenched tax system fiercely defended by the winners. But he proposed a novel vision – one also floated during the early 1990s by the Legislative Analyst’s Office – to spend property tax dollars more efficiently in California by better aligning local property tax revenues with demand for services. “Communities should be empowered with the authority they need to allocate revenues according to their particular needs and preferences,” Mr. Coleman testified. “We have a local property tax apportionment system that fragments local governance: no local authority exists to allocate revenues among the core municipal services to better match local service level preferences as they exist today, not 30 or 40 years ago.”

Under Mr. Coleman’s scenario, the Legislature would give counties and cities responsibility to provide *all* services within their boundaries, even those now provided independently by special districts. Cities and counties would decide local service levels – for police, fire, parks, libraries, water and others – and have authority to shift annual spending of local property taxes to best provide them. In this manner, Mr. Coleman testified, a single government authority would set service priorities within its boundaries through an annual open budget process, he testified, rather than the current system of numerous independent entities making those decisions irrespective of one another and the region’s overall needs and wants.

“The authority to reallocate revenues from taxes should be tied at the hip with the responsibility for the service for which those taxes are intended,” Mr. Coleman told the Commission. Policymakers with the power to shift revenues from one program to another should shoulder the responsibilities for those programs.”

“Special districts could continue to be service providers under arrangement with cities and counties, but would no longer be ‘taxing entities,’” Mr. Coleman stated in his written testimony. Orally, he told the Commission, “I have said this many times, and I should reemphasize here again, that special districts, are in many cases, I do not doubt, the very best, most efficient and effective service provider for an area. What I’m suggesting is that that decision can be made through contract, as it is in many cases, as opposed to a locked-in allocation of revenues so that a community has the choice to think about what’s the best alternative for providing the service in the area.”

Special district representatives disagreed vigorously with Mr. Coleman’s proposal. Kyle Packham of the California Special Districts Association told the Commission it “fails on multiple levels” and noted the fact that it’s never been implemented suggested that it’s too difficult or “it may be it’s just a bad idea.” “The linchpin to the effectiveness of special districts, which Mr. Coleman recognizes in his written testimony, is their authority over revenues and expenditures. They’re independent,” Mr. Packham testified. “The moment that authority is subjugated to another body like cities, the district is completely undermined.”

Mr. Packham added: “Giving another body the purse strings might as well be handing them chains and shackles. He who controls, or she who controls, the revenue controls the outcomes. Therefore, turning over revenue control to the cities would inherently eliminate the purpose for which voters established special districts and the foundation for their effectiveness and efficiency.”

The Commission clearly recognizes that intense opposition to a different, more rational model of tax sharing creates formidable political obstacles to reforms. Yet, reflecting on the obvious inequities of property tax allocation and the locked-in formulas that have created winners and losers for nearly four decades after Proposition 13’s passage, it considers Mr. Coleman’s proposal worth keeping among policy options for the longer term in California.

The Prickly Question of Reserves

The August hearing also revisited a sensitive topic of financial reserves held by special districts. In its 2000 report the Commission issued a finding, noting: “Hundreds of independent special districts have banked multi-million dollar reserves that are not well publicized and often not considered in regional or statewide infrastructure planning.”²¹ The Commission found that “some reserves appear unreasonably large” and reported at length on ways to define a “prudent” reserve.

At the Commission’s August 25, 2016, hearing, Jon Coupal, president of the Howard Jarvis Taxpayers Association, reiterated many of those criticisms, stating, “Few can deny that many government entities have abused the public trust by hoarding vast sums of money. The problem remains, as it did in 2000, especially acute with enterprise districts.” Mr. Coupal added that reserves have continued

to increase since 2000 among the 25 top enterprise districts cited in the Commission’s original report.

The California Special Districts Association and individual special districts in 19 instances of public comment forcefully contested Mr. Coupal’s figures as well as his criticism. Mr. Coupal defended his testimony, stating, “It’s been said that we don’t understand reserves. I would submit that we do, very well.”

In his written testimony, Mr. Packham stated, “There are many factors to maintaining sufficient reserve levels and ultimately the fact that one agency has larger or smaller reserves than another is not, in and of itself, a bad thing.” He added, “The key is for agencies to establish a clear and well-articulated rationale for the accumulation and management of reserve funds.”²²

Special districts have likewise continued to dispute the numbers cited for special district reserves in the Commission’s 2000 report, labeling them inaccurate and misleading. In 2016, a Commission discussion with special districts about their reserve figures cited by the State Controller’s Office led to the same impasse as districts told the Commission they use different definitions and calculations for their reserves than those reported by the State Controller. The bottom line: it is nearly impossible under the current state reporting system to draw conclusions that won’t be challenged by special districts as inaccurate. Trade associations for special districts told the Commission the State Controller’s Office has established a task force including representatives of cities, counties and special districts, to work on standardizing definitions used in its reporting of reserves to eliminate this constant discrepancy. The Commission hopes that work remains a priority and is soon concluded to help the public properly assess the reserves held by their local districts.

Special district executives repeatedly told the Commission during its August 25, 2016, hearing that strong financial reserves are necessary for district operations and represent good fiscal judgment. The discussion, highly focused on the need for expensive infrastructure to do their work today and into the future, prompted Commission Chair Pedro Nava to ask district representatives if they are considering the impacts of climate change when investing their reserve funds. That discussion prompted additional research and a second

hearing on October 27, 2016, on districts' reserve policies and climate change adaptation, a subject that will be discussed in a later chapter.

RECOMMENDATIONS

Many of the concerns raised about special districts continue to be repeated in 2017. Within Capitol policy circles, some still contend that special districts are ripe for consolidation and represent convoluted, dispersed, under-the-radar government. The Commission, while recognizing that many districts could still be consolidated, believes that number may be more in the dozens than the hundreds. It takes at face value the fact that the number of districts has continued to level off since 1997. Yet the Commission remains frustrated with this seemingly slow process and at one juncture during the study process, even considered recommending broad and sweeping changes or encouraging a larger role for the Legislature.

After significant additional public input and several deliberations, the Commission still largely agrees, as it did in 2000, that keeping or dissolving a special district remains more of a local choice than a choice to be exercised within the Capitol. Governing issues remain, however, and special districts operations can be improved. The state can help through a one-time infusion of funding, combined with additional statutory improvements for LAFCOs. But these recommendations, if implemented, should be analyzed and measured and if additional progress does not occur, further reforms should be considered.

Recommendation 1: The Legislature and the Governor, should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.

The Legislature and Governor have reason to be frustrated with slow and deliberative LAFCO processes. But these are local institutions of city, county and special district members often better attuned to local politics than those in the State Capitol. Exemptions where the Legislature gets involved should be few, and in special cases where the local governing elites are so intransigent or negligent – or so beholden to entrenched power structures – that some higher form of political authority is necessary.

Recommendation 2: The Legislature should provide one-time grant funding to pay for specified LAFCO activities, particularly to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.

The Commission in its 2000 report and again in this study heard that certain LAFCOs and smaller districts lack the resources to propose consolidations and dissolutions. As part of the August 2016 hearing and June 2017 advisory committee meeting the Commission was told a small one-time infusion of \$1 million to \$3 million in grant funding could save California taxpayers money if local government is streamlined and efficiency is improved. This funding could provide an incentive for LAFCOs or smaller districts to start a dissolution or consolidation process. Participants in the Commission's public process suggested the Strategic Growth Council or Department of Conservation could administer this one-time funding.

Recommendation 3: The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.

The Commission's study found that there are inactive special districts that hold no meetings and conduct no public business. The exact number of inactive districts is not known and no formal effort to quantify this problem has occurred. A preliminary review by The California Special Districts Association found seven examples. Making the legal dissolution process for inactive districts easier for LAFCOs would represent a significant first step in trimming district rolls in California.

Recommendation 4: The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.

The Cortese-Knox-Hertzberg Reorganization Act of 2000 (AB 2838, Hertzberg) provided the option to add two special district members to county LAFCOs to broaden local governing perspectives. Nearly two decades later, 30 counties have special district representatives on their LAFCOs alongside city council members and county supervisors. This change provides LAFCOs a more diverse decision-making foundation and stronger finances. But 28 additional counties, mostly in rural California, have balked, citing scarce resources. Presently, a majority of a county's special districts must pass individual resolutions within one year supporting a change. This has repeatedly proved itself a formidable obstacle to broadening the outlook of local LAFCOs. AB 979 would allow a simple one-time election process where districts could easily – and simultaneously – decide the question.

Recommendation 5: The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.

The California Association of Local Agency Formation Commissions testified on August 25, 2016, that individual LAFCO members – members of city councils, county boards of supervisors and special districts – are expected to exercise their independent judgment on LAFCO issues rather than simply represent the interests of their appointing authority. It is a sometimes difficult expectation when members serve at will of their appointing authority. The CALAFCO hearing witness said unpopular votes have resulted in LAFCO board members being removed from their positions. Fixed terms would make voting members more willing to exercise the appropriate independence in decision-making.

Recommendation 6: The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.

The Commission heard that an overly complicated and inconsistent process provides another obstacle to implementing district dissolutions or consolidations. There is one set of rules if a LAFCO initiates a dissolution or consolidation and another if the same process is initiated by a district. There was general agreement that a simplified and consistent process could improve

local governance, but the Commission was cautioned against recommending specifics on the process without significantly more stakeholder input. The June 2017 meeting participants agreed this topic warranted further review and suggested the local governance committees in the Legislature convene an advisory group to propose specific legislative changes.

Recommendation 7: The Legislature should require every special district to have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.

The Commission heard a great deal about the need for adequate reserves, particularly from special districts with large infrastructure investments. The Commission also heard reserves were excessive and district policies on how reserves are set aside, invested and earmarked for future use are not readily available for public review. To be more responsive to constituents, special districts should better articulate the need for and the size of reserves, by adopting explicit policies for reserve funds. These policies should be readily available for public review.

Recommendation 8: The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes.

Presently, it is difficult to assess actual reserve levels held by districts that define their numbers one way and the State Controller's Office which defines them another way. The State Controller's Office is working to standardize numbers following a year-long consultation with a task force of cities, counties and special districts. To improve transparency on reserves, a subject that still eludes effective public scrutiny, the State Controller's Office should push this project to the finish line as a high priority.

Improving Transparency

Modern technology provides government a broad array of tools for providing information to the public and to solicit input and involvement from constituents. The Commission found dramatic improvement in the way special districts used websites to reach the public as compared to its prior review in 2000. But this is still not true statewide. And, it still is difficult for the public to know which districts receive their property tax dollars, how to participate in their district’s public process and how to pick the best board members to run their districts from an often obscure list of potential candidates.

Improving Transparency on Websites

In its 2000 report, the Commission found many districts provided minimal information to the public and many were still in the practice of posting meetings and agendas only at the district headquarters. In the subsequent 17 years, many special districts have embraced technology and provide much more information online. Some of the small and rural districts, however, still lack sufficient revenue and the consistent Internet access that would allow them to create and maintain a web presence. For these districts, it is more feasible to have no website at all rather than comply with state mandates for local government websites. Social media such as Twitter and Facebook provide new, less-costly outreach options.

The California Special Districts Association in partnership with the nonprofit Special District Leadership Foundation can be credited with making significant strides in improving online transparency for many special districts since the Commission’s 2000 report. The Special District Leadership Foundation has developed specific criteria special districts must meet to be awarded a District Transparency Certificate of Excellence. Currently, 118 special districts have received this certification.

Additionally, the California Special Districts Association has partnered with Streamline, a division of Digital Deployment, a web development company, to develop a website builder. With no startup fees and no commitment, association members can create and launch a website that meets all legal requirements as well as the Special District Leadership Foundation’s transparency guidelines for as little as \$10 per month.²³

Current law mandates four requirements for any local agency with a website:

1. Agendas must be posted 72 hours before a meeting occurs.
2. Annual compensation reports, or a link to the State Controller’s website that contains the report, must be posted.
3. Financial transaction reports, or a link to the State Controller’s website that contains the report, must be posted.
4. Enterprise system catalogs must be posted.

The fourth requirement – to post enterprise system catalogs – is a fairly new requirement unique to local governments enacted through legislation in 2015, SB 272 (Hertzberg). This law requires local governments to include a list of all software and computer systems that it uses to collect, store or analyze information. By creating the new rule as part of the Public Records Act, the law technically did not create an unfunded mandate for local government. Local governments, however, point to this type of legislation as state micromanagement as this website feature may add little value to local government constituents, but does require ongoing staff resources to keep the feature up-to-date.

Certificate of Excellence Website Requirements

The Special District Leadership Foundation encourages special districts to apply for a District Transparency Certificate of Excellence. These certificates indicate the district meets certain criteria and maintains a website with the following required items:

- Names of board members and their full terms of office to include start and end date
- Name of general manager and key staff along with contact information
- Election/appointment procedure and deadlines
- Board meeting schedule (Regular meeting agendas must be posted 72 hours in advance pursuant to Government Code Section 54954.2 (a)(1) and Government Code Section 54956 (a))
- District's mission statement
- Description of district's services/functions and service area
- Authorizing statute/Enabling Act (Principle Act or Special Act)
- Current District budget
- Most recent financial audit
- Archive of Board meeting minutes for at least the last 6 months
- Link to State Controller's webpages for district's reported board member and staff compensation (Government Code Section 53908)
- Link to State Controller's webpages for district's reported Financial Transaction Report (Government Code Section 53891 (a))
- Reimbursement and Compensation Policy
- Home page link to agendas/board packets (Government Code Section 54957.5) SB 272 compliance-enterprise catalogs (Government Code Section 6270.5)

The foundation also encourages additional items – and requires websites to include at least four of the items below:

- Post board member ethics training certificates
- Picture, biography and e-mail address of board members
- Last (3) years of audits
- Financial Reserves Policy
- Online/downloadable public records act request form
- Audio or video recordings of board meetings
- Map of district boundaries/service area
- Link to California Special Districts Association mapping program
- Most recent Municipal Service Review (MSR) and Sphere of Influence (SOI) studies (full document or link to document on another site)
- Link to www.districtsmakethedifference.org site or a general description of special districts
- Link to most recently filed FPPC forms
- Machine readable/searchable agendas (required in 2019)

Source: Special District Leadership Foundation website. Accessed August 7, 2017. https://docs.wixstatic.com/ugd/e1128e_2a54d6cbed247a19f30556c297daee0.pdf

In written comments to the Commission following the June 2017 advisory committee meeting, Mr. Packham from the California Special District Association noted that between April and June 2017, one district website had 289,133 unique page views to its homepage, but only 16 unique page views of the enterprise system catalog link. In the same letter, Mr. Packham urged the Commission to not only consider the upfront costs of developing or updating a website to comply with statutory requirements, but also the ongoing personnel costs required to maintain and update information on the website. He and others also suggested that any new requirements related to special district websites be consistent across all levels and types of state and local government and that consideration be given to small special districts with limited revenue and inconsistent access to the Internet.²⁴

Improving websites was a significant discussion topic at the Commission's June 2017 advisory committee meeting. Chair Pedro Nava encouraged districts to "tell their story" in plain language. There are very few government entities that are in a position to let people know that they are out there working directly for them and that the taxes and fees they pay fund local services, he said.

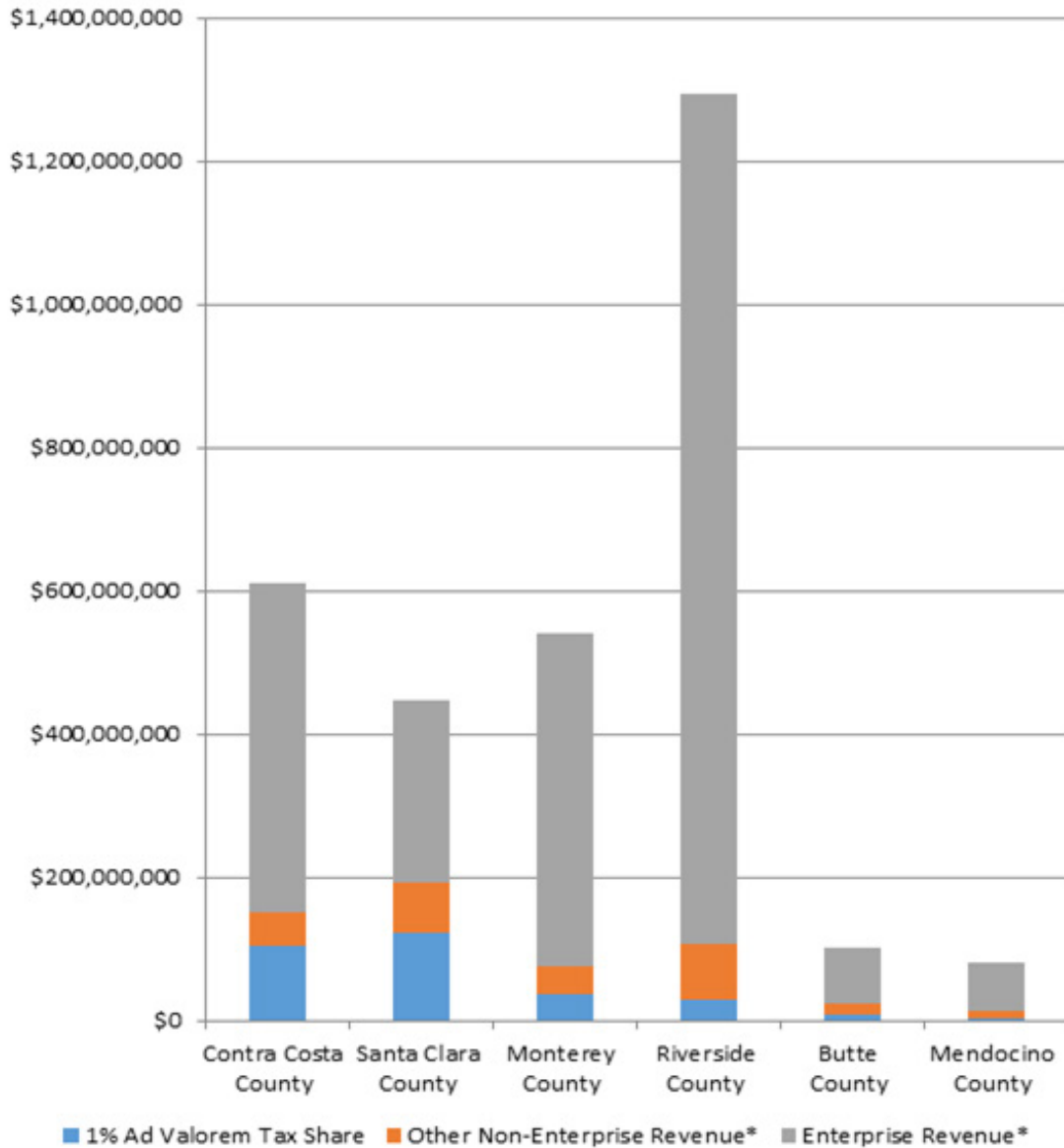
The goal of additional transparency is not micro-managing, another Commissioner stated at the meeting, but rather consistently making information available that answers basic questions about a district: how many employees are there and what are they paid, where does the revenue come from and how is money spent in the district. The goal, he said, is to build trust.

During the study process, the Commission also found it difficult to draw basic conclusions about independent special districts even though much information is publicly available on the State Controller's websites. [Government Compensation in California](#), includes employee salary, benefits and pension costs for every special district that submits this information as required to the State Controller's Office. Another State Controller's Office website, [By the Numbers](#), provides access to the financial information provided by special districts including revenue, expenditures, long-term debt and other data points and allows the website user to compare up to five different districts. This information on these two websites is valuable and helpful, particularly if the interested party knows where to look and the name of the special district they want to review, but it is difficult to

compile aggregate data as the State Controller combines independent and dependent special districts along with joint powers authorities and nonprofit corporations. Disaggregating independent special district data on the website would enable the public and policymakers to more easily draw general conclusions. With assistance from State Controller's Office staff, the Commission was able to learn that independent special districts generate some \$21 billion in annual revenues and employ more than 90,000 local government workers.²⁵

The Commission also found that it is difficult, if not impossible, for taxpayers to understand where their property tax dollars are spent locally. Although many special districts, as previously described, do receive a portion of their revenue from property taxes, not all do. SB 448 (Wieckowski), the legislation that would make it easier for LAFCOs to dissolve inactive districts, also included provisions requiring all county tax bills to include a list of all services provided by a city, county, special district or school district that are funded by the general ad valorem property tax. Ad valorem taxes are levied on property based on its value. In California, the ad valorem property tax is restricted by a formula set by Proposition 13, a ballot proposition enacted by voters in 1978. An analysis of SB 448 by the Senate Appropriations Committee concluded this provision would create "significant reimbursable mandate costs, likely in the millions annually related to requirements for counties to report specified information regarding services provided through the ad valorem property tax on every tax bill."²⁶ As a result of the cost, the bill was amended to delete the provision related to tax bills. The Legislature should continue to work with county officials to develop an alternative that would allow taxpayers to better understand the use of their ad valorem property taxes without causing an excessive burden for counties.

Independent Special District Revenue, by County FY 2015



Source: Data obtained from Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association. Sacramento, CA. June 21, 2007. Written communication. Citing State Controller’s Office Financial Transaction Report Data obtained through www.bythenumbers.sco.ca.gov.

At the Commission’s April business meeting, Commissioners asked if it was possible to look at one or two counties and view how much of the ad valorem property tax went to each of the districts operating within the county – with the understanding that many districts straddle more than one county and many districts receive no property tax revenue at all. In response, the California Special Districts Association, using data from the State Controller’s By the Numbers website, compiled information for two urban, two suburban and two rural counties. In the six counties analyzed, the ad valorem property tax generated ranged from 2 percent of total special district revenue in Riverside County to 27 percent of total special district revenue in Santa Clara County. Data show the vast majority of revenue for special districts in each of these six counties came from fees charged for services, not property taxes. Approximately 47 percent of the 256 special districts identified in the six counties received no property tax at all.²⁷ The data provided also included the total ad valorem property tax provided to county government, city government and all the special districts within each of the six counties. The chart below reflects the variances in each county, with special districts

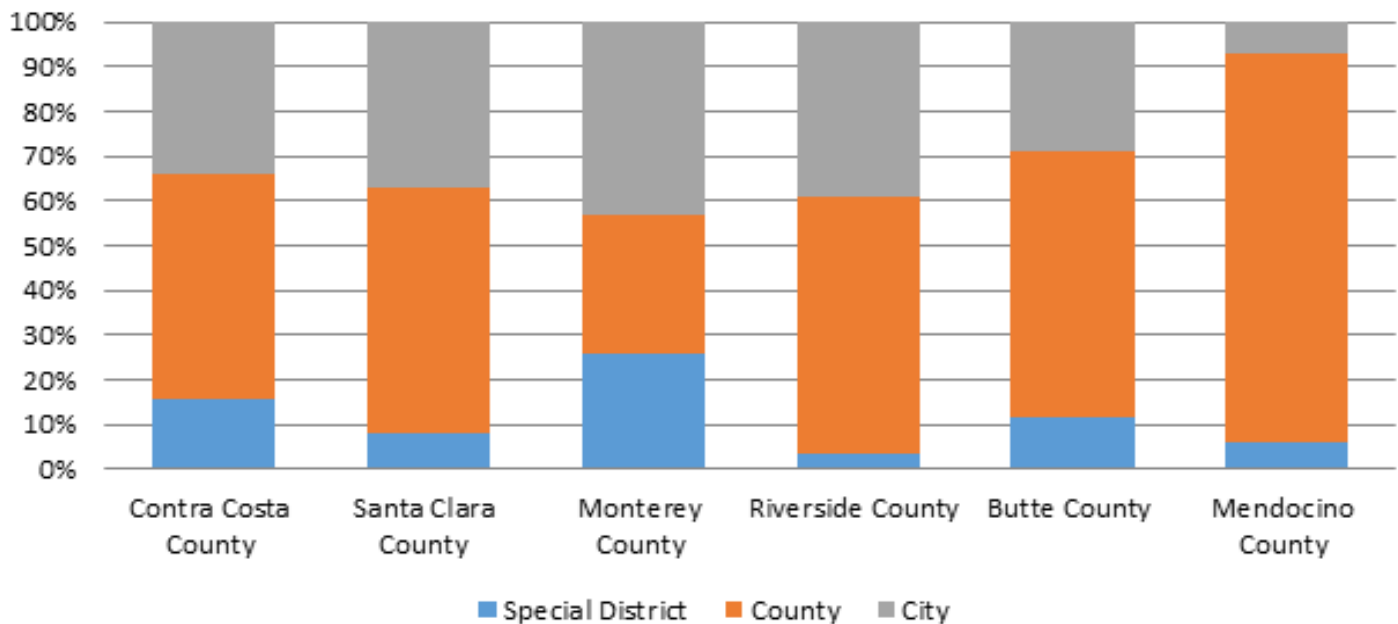
in Riverside County receiving approximately 3 percent of total ad valorem tax revenues and Monterey County receiving approximately 25 percent of the total.²⁸

Low Visibility = Public Engagement Challenges

The public often does not know what government entity provides a particular service, according to testimony at the Commission’s public hearings and discussion at its advisory committee meetings. Mr. Packham and others suggested that K-12 civics education should include more information about local government, particularly since cities, counties and special districts provide government services most relevant to local communities.

There was an ongoing dialogue throughout the study process about public outreach including opportunities to create greater awareness for public participation at district board meetings and opportunities to serve on boards as well as the need for better information on candidates running to serve on boards.

Ad Valorem Tax



Source: Data obtained from Kyle Packham, Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. June 21, 2007. Written communication. Citing State Controller’s Office Financial Transaction Report Data obtained through www.bythenumbers.sco.ca.gov.

When Districts Go Bad

Given the Commission’s general interest in this review of working within existing institutions and the established system to regulate special districts, Commissioners also considered what legal or other mechanisms exist to deal with districts (or district officials) that go off the rails with poor ethical decisions or illegal behavior. The Commission learned of a number of options to right wrongs within the existing system:

- Residents of the district can vote perceived offenders on the board out at the next election.
- Residents of the district can mount a recall effort of board members who exercise questionable conduct.
- The county District Attorney can file criminal charges.
- Whistleblowers can use the State Attorney General’s whistleblower system. The Attorney General also has authority for criminal matters.
- County civil grand juries can investigate special districts and report on findings.
- County Local Agency Formation Commissions can do a Municipal Service Review and initiate a process for dissolution or reorganization.
- The California State Auditor has statutory authority to identify, audit and issue reports on local government agencies, including special districts deemed at “high risk for the potential of waste, fraud, abuse, and mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.” Audited districts must file reports every six months on their progress implementing corrective action plans until the auditor is satisfied with results.
- The California Public Employees Retirement System (CalPERS) can administratively address pension issues such as reports of pension spiking related to special districts and district members.
- The state’s Fair Political Practices Commission has authority to investigate and fine special district officials for elections or campaign financing violations.
- Voters have power to qualify a local ballot initiative regarding a special district.
- Depending on the type of district or situation there may also be recourse through various regulatory bodies, such as the State Water Resources Control Board, the Public Employment Relations Board and others.

Sources: California Special Districts Association. Commission staff research.

As previously noted, one of the benefits of special districts is that they typically focus on one service area. This, however, lowers their visibility – hence such nicknames as ghost governments, invisible governments and under-the-radar governments. Low visibility also can inhibit public participation. A 2016 “Last Week Tonight with Jon Oliver” parody on special districts made fun of the fact that no one attended a public meeting of the Litchfield, New Hampshire, Mosquito Control District, at which two board members recited the Pledge of Allegiance by themselves and faithfully asked of the empty room if there was public comment on individual agenda items. (“I guess when you’re a member of ghost

government, you’re going to have a ghost public,” Oliver quipped).²⁹ The media infrequently attends and reports on special district meetings and most receive little local scrutiny until a scandal arises.

Low visibility of special districts contributes to challenges with public engagement. How do districts reach out about climate change or other topics to residents who are busy with their lives, aren’t overly familiar with the district in the first place, don’t know about the district’s social media sites and typically throw away most of the unsolicited paper that comes in their mail? Moreover, how do they broaden a governing board with new voices from

underrepresented communities where many working people don't have time, money or inclination to run for office or serve long hours for a minimal volunteer salary?

Special districts impact quality of life dramatically, yet voters often have the least information about those candidates during an election. District candidates often do not have websites or the visibility typically found in a city council or county supervisor election. And, local government elections typically yield lower voter participation than national or statewide elections. A 2011 Legislative Analyst's review of 42 special districts in San Diego County found little difference in voter participation, stating, "In our analysis of San Diego County local governments since 2002, we found that regardless of the size of the district, special district voter turnout was substantially similar to the turnout for city and county government elections."³⁰

Voter participation drops for down ballot contests, such as school board or water district elections, in comparison to participation in top of the ballot contests such as presidential or gubernatorial seats, according to election data provided to the Commission by county registrars from Orange and Santa Cruz counties. Data collected on voter participation in Santa Cruz County since 1985 show that, on average, voters participate in special district and city elections at a much lower frequency than they do for presidential and gubernatorial elections.³¹

Average Voter Turnout in Santa Cruz County Elections Since 1985

Presidential General	78.90%
Presidential Primary	59.01%
Gubernatorial General	63.97%
Gubernatorial Primary	47.85%
Special District or City Special Election	42.21%

Similarly, data from Orange County's last three general elections show that participation in top of the ticket items is high. In 2012 and 2016, 67 percent and 78 percent of the county's registered voters respectively turned out to vote for a presidential candidate. Top of the ticket turnout in 2014 for the state's gubernatorial race was

comparatively lower – just 43 percent of registered voters cast a vote for a gubernatorial candidate.³² In these three elections, on average, about 47 percent of registered voters in Orange County turned out to cast a vote in special district or city elections.³³

Commissioners asked special district representatives during both public hearings how they engage with the public, particularly with underrepresented communities, about participating in public meetings and even running for office to ensure district boards reflect the diversity of the constituents served. Typically, representatives responded they make wide use of their websites and still wider use of social media sites – Facebook, Twitter, LinkedIn, Instagram and Next Door – to communicate with residents. Many go into schools with classroom presentations, erect booths at community fairs, use inserts with bills and publish a monthly or quarterly newsletter mailed to residents. In 2016, the Sanitation Districts of Los Angeles County began a quarterly workshop to educate the public and stakeholders on water issues related to climate change. As budgets have improved from the Great Recession, facility tours also are a popular public engagement tool, they said.

The California Special Districts Association, in August 25, 2016, hearing testimony, also cited a partnership with the Sacramento-based Institute for Local Government (ILG) to help build public outreach capacity within special districts. The institute, funded with a \$300,000 grant from the James Irvine Foundation, in 2017 began providing engagement training to cities, counties and special districts. The program provides a step-by-step approach to help local governments plan and execute their public engagement work in a systemic way. Sarah Rubin, ILG program manager for public engagement, said the program identifies up-and-comers in public organizations who may be doing a variety of jobs unrelated to outreach, but are expected to become leaders. They received training in systemic, continuous public outreach that goes beyond what cities, counties and special districts usually do – which is engage people to support one-time events such as voting for special taxes or benefit assessment districts. Ms. Rubin told the Commission, "We want them to think beyond the one-off way. To think about who is in their community, to think, when you need new board members, how do you notify the community to make sure they know about it."³⁴

RECOMMENDATIONS

The Commission recommended improving transparency in its 2000 report and while it acknowledges significant improvement in this area, much more can be done. At the June 2017 advisory committee meeting, Commissioners agreed that the goal of increased transparency was not to micromanage or create unnecessary burdens or significant new mandates for special districts but to improve trust in government. Ultimately, it is in the best interest of special districts to “tell their story.” Many are quietly providing excellent services, often unnoticed until a rate hike is proposed, a street floods or the power goes out.

Likewise, the Commission commends efforts to improve public engagement by the California Special Districts Association and the Institute for Local Government and urges these organizations to continue to develop best practices.

Recommendation 9: The Legislature should require that every special district have a website.

Key components should include:

- ***Name, location, contact information***
- ***Services provided***
- ***Governance structure of the district, including election information and the process for constituents to run for board positions***
- ***Compensation details – total staff compensation, including salary, pensions and benefits or a link to this information on the State Controller’s website***
- ***Budget (including annual revenues and the sources of such revenues, including without limitation, fees, property taxes and other assessments, bond debt, expenditures and reserve amounts)***
- ***Reserve fund policy***
- ***Geographic area served***
- ***Most recent Municipal Service Review***

- ***Most recent annual financial report provided to the State Controller’s Office, or a link to this information on the State Controller’s website***
- ***Link to the Local Agency Formation Commission and any state agency providing oversight***

Exemptions should be considered for districts that fall under a determined size based on revenue and/or number of employees. For districts in geographic locations without stable Internet access, make this same information available at the local library or other public building open and accessible to the public, until stable Internet access becomes available.

Building on this recommendation, every LAFCO should have a website that includes a list and links to all of the public agencies within each county service area and a copy of all of the most current Municipal Service Reviews. Many LAFCOs currently do this and some even go beyond by providing data on revenues from property taxes and user fees, debt service and fund balance changes for all the local governments within the service area. At a minimum, a link to each agency would enable the public to better understand the local oversight authority of LAFCOs and who to contact when a problem arises.

Recommendation 10: The State Controller’s Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities.

The State Controller’s Office is a leader in making the information it has available to the public. Despite its significantly out-of-date database software, the public can find a substantial amount of data on the State Controller’s website, particularly if the search is focused and the name of the district is known. But the manner in which data is stored on the State Controller’s Office website makes it difficult to draw general conclusions about independent special districts, such as overall revenues or employee compensation as information for independent districts is mixed with various other entities.

Recommendation 11: The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards.

The Commission heard anecdotally that the public does not understand special district governance, does not often participate or attend special district board meetings and often does not vote in local elections. This was supported by information provided to the Commission by two county registrars that showed that many voters who voted for federal or statewide offices, did not vote for local government officials at the same rate, whether they were city council positions, special district positions or local school or community college district positions.

What Role for Healthcare Districts?

Few public policy arenas in 2017 appear fraught with more political and financial uncertainty than healthcare. And few public entities have more at stake in the outcome than a particular subset of special districts known as healthcare districts. As part of this review, the Commission sought to better understand one type of special district. It specifically focused on a controversial class of healthcare districts – those which no longer operate hospitals. Most of these districts, just like counties before them, have shed their hospitals in recent years due to deteriorating financial conditions within their operations. Instead, some districts manage various prevention and community-based wellness programs, often targeting specific identified needs. Others provide grants and manage healthcare facilities, among many other activities.

Scattered incidences of political turmoil, grand jury reviews and accompanying unflattering media in the wake of these transitions shows that many districts without hospitals still struggle to explain their roles in a rapidly evolving era of healthcare that emphasizes preventive care over hospitalization. No category of special district is perhaps more misunderstood regarding its proper role within the local and regional governing apparatus of California.

The Commission heard two equally compelling views of California healthcare districts that no longer operate hospitals:

- One segment questioned whether public healthcare districts without hospitals remain relevant – and more, whether they should continue to exist within the labyrinth of public, commercial, nonprofit and not-for-profit healthcare delivery in California. The Legislature, local grand juries, LAFCOs and healthcare analysts wondered if some of these districts are simply “money chasing a mission?” In other words, are they outmoded public institutions protecting their turf as they defend and hold firm to their traditional financial bases of property taxes?

- Alternatively, despite the great uncertainty about a long-term direction of healthcare in general and the Affordable Care Act and its potential replacement in particular, many healthcare districts without hospitals are indeed, carving out interesting and pioneering new roles in delivering preventive care. Some are receiving national attention as models of a new paradigm in healthcare. Are these districts onto something that has not yet jelled in public consciousness – a notion that healthcare districts can reduce out-of-control healthcare costs locally in the long run by investing upfront in healthier lifestyles – what one healthcare district executive calls “preventing the preventable?”³⁵

Each of these questions drove the Commission’s 2016-2017 review of healthcare districts (the new name the Legislature gave hospital districts during the 1990s to reflect changes in healthcare). The Commissioners also considered related questions:

- When a healthcare district primarily exists to manage real estate or redistribute its property tax allocations as community healthcare grants to other entities, might its job be better fulfilled by county health departments or other local or regional health organizations?
- Do critics who maintain that healthcare districts without hospitals should be dissolved have too narrow a focus and lack understanding of shifts in the healthcare landscape?
- In an era of higher emphasis on wellness and preventive care are healthcare districts the appropriate entities to model and offer a new menu of healthcare services?

The Commission in November 2016 convened an advisory committee meeting that brought together nearly two dozen experts to discuss how healthcare

districts are rethinking their roles and relevance in an era that favors preventive care over traditional hospital care – the original reason for the existence of California healthcare districts. Participants discussed the role of LAFCOs in consolidating or dissolving healthcare districts and analyzed best practices and metrics to define their accomplishments. Commissioners initially described a phenomenon of “mission creep” that comes over agencies defending their turf and asked what makes healthcare districts special – whether in finance, management or governance – compared to county governments? Indeed, if California was to develop a healthcare system from scratch, might it best be done by counties instead of healthcare districts? The November meeting is discussed in greater detail later in this chapter and forms the basis of recommendations at the end.

Nearly Half of Districts Still Operate Hospitals

Approximately one-half of California’s 79 healthcare districts still operate hospitals, mostly in rural areas with few competitors or other intensive-care alternatives. No one has suggested a need to dissolve those rural districts and their hospitals, which provide essential emergency services to visitors and tourists, as well to their own residents.

Debates about the mission and purpose of healthcare districts, instead, tend to center on suburban healthcare districts. Created in former rural areas that have suburbanized, they now operate in competitive healthcare markets. The Legislature’s 2015-16 session, for instance, considered whether to: force an East Bay healthcare district to dissolve (not passed); rein in its administrative overhead expenses (passed and signed by the Governor); and, require the Southern California Coachella Valley to expand its service boundaries to take in more lower-income residents (passed and signed by the Governor). This provides another example of the Legislature bypassing the LAFCO process.

In the face of institutional criticism executives of suburban healthcare districts without hospitals continue to tout their viability. Commonly, in formal Commission hearing testimony, remarks during an advisory committee meeting, in public comment and conversations with

Commission staff, healthcare district executives told the Commission:

- They are more nimble and flexible than county public health bureaucracies in defining and funding the healthcare priorities of their communities.
- They are helping to pioneer a new era of cost savings via proactive preventive care for children, adults and the elderly under the umbrella of “wellness.”
- They are often misunderstood in this new mission by critics who lack understanding about how much the healthcare landscape is changing and downplaying hospitalization.
- Voters generally support their districts’ local missions and the manner in which they channel their district property taxes to community groups as healthcare grants.

California Healthcare Districts: A Brief Introduction and History

Alongside the proliferation of large hospital chains, private doctor’s offices, federally-qualified health centers and county health departments that dominate California’s healthcare landscape, 79 public healthcare districts – with and without hospitals – employ 32,000 people and operate in 40 counties. More than two-thirds of these districts are established fixtures in small towns and rural areas, governed by volunteer elected boards and administered by professional staffs. The typical rural healthcare district provides nearly one-third of its care to low-income residents.

Statewide, 37 of the 79 healthcare districts operate 39 district hospitals, the Association of California Healthcare Districts (ACHD) reported in August 25, 2016, hearing testimony. Forty-two districts no longer own or operate a hospital, or never did.³⁶ The 39 district hospitals make up just 10 percent of hospitals in the state. The rest of the hospital landscape in California includes 209 nonprofit hospitals, 90 investor-owned private hospitals, 50 hospitals run by health systems and 10 veterans hospitals, according to the California Hospital Association.³⁷

Californians began to form hospital districts during the 1940s when the Legislature passed the Local District Hospital Law to deal with a shortage of local hospital beds and medical care in a growing state, particularly in rural areas. These new hospital districts steered property tax and fee revenues into a hospital building boom as the state added nearly 10 million new residents during the 1950s and 1960s.³⁸

By the late 1970s and into the 1980s, however, these and other smaller hospitals struggled as public and private insurers increasingly implemented cost-saving strategies. A new managed-care and cost-minded approach to financing hospital care added to deficits. Beds lay empty as patients were discharged earlier. Growth in outpatient care due to better technology and pharmaceutical drugs kept those hospital rooms vacant. Since then, a growing emphasis on wellness and preventive care accelerated by the passage of the Affordable Care Act in 2010 continues to drive a trend of less hospitalization. Just as many counties earlier closed hospitals under these financial pressures, special districts have in recent years closed at least 16 hospitals and outsourced operations of five more to for-profit and not-for-profit chains, stated the ACHD in written testimony to the Commission.

The most recent closures include Doctor’s Hospital in San Pablo in April 2013. Six months after Doctor’s Hospital closed, San Diego County-based Fallbrook Regional Health District, in November 2014, closed its Fallbrook Hospital emergency room and stopped admitting patients due

to continuing financial losses. The district’s contracted hospital operator attributed losses - \$6 million in 2013 alone – to “modern health care’s growing emphasis on managed care contracts, which funnel patients to specific providers, and ongoing competition from other hospitals in the region.”³⁹ The West Contra Costa Healthcare District, which struggled through years of financial losses at the hospital – attributed in part to low reimbursement rates for Medi-Cal and Medicare – filed for bankruptcy in October 2016.⁴⁰

Amid these trends, more hospital districts, including West Contra Costa Healthcare District and Fallbrook Regional Health District, have turned toward being general community health providers. A 2006 California Healthcare Foundation study noted that districts increasingly offer substance abuse and mental health programs, outpatient services and free clinics. They also run senior programs that include transportation to wellness and outpatient care. Others provide nurse training, physician recruitment, ambulance services, health education programs and a variety of wellness and rehabilitation activities.⁴¹

At the Commission’s August 25, 2016, hearing, Amber King, senior legislative advocate for ACHD, expanded on the 2006 list, testifying: “The range of services offered by healthcare districts are tailored to meet community needs and include prevention and public health programs, primary care, skilled nursing, ambulance, hospice and acute and emergency services. Despite their unique and



New 50-bed Hillcrest Hospital opened 1957 by the Petaluma Hospital District. Courtesy of Petaluma Health Care District.

varied nature, the mission of healthcare districts remains the same: to provide critical health services to the communities that created them,” testified Ms. King.⁴²

California Healthcare Districts at a Glance:

- Number of Districts: 79
- Districts that levy property taxes: 66
- Districts in rural areas: 54
- Districts without hospitals: 42
- Districts with hospitals: 37
- Number of hospitals: 39
- Districts that lease their hospitals: 5
- District hospitals that have closed: 16
- District employees statewide: 32,000
- Number of board members: 400

Source: Association of California Healthcare Districts. Written testimony to the Commission. August 25, 2016. Also, personal communication. August 1, 2017.

Another key development in the evolution of healthcare districts without hospitals is their role as grant-makers to community organizations. Critics question if people want to pay property taxes so health district executives can act as a “middleman” and disburse them in grants. Others also have questioned how the money is spent. A Senate Governance and Finance Committee analysis for AB 2471 (Quirk), which aimed, unsuccessfully in 2016, to force dissolution of Alameda County’s Eden Township Healthcare District, stated, “In recent years Eden Township Healthcare District has spent district funds on sponsorships of community organizations and events that appear to have relatively tenuous connections to community healthcare needs, including the Hayward Area Historical Society’s ‘Martini-Madness Gala,’ a Rotary Club ‘Lobsters for Literacy’ fundraiser, charity golf tournaments, and a community rodeo parade.”⁴³ The district, which doesn’t run a hospital, also reportedly spends more on administrative expenses than it allocates in grants.⁴⁴

Jack Hickey, a director of Sequoia Healthcare District in San Mateo County, told the Commission his district funds a food bank that provides services to residents

outside the district – with less than 10 cents per dollar of local taxes returning to district residents. Mr. Hickey, a long-time board member who campaigns to dissolve the district, said it spent \$10 million subsidizing nursing programs that didn’t require the nurses to work inside the district.⁴⁵ (A June 2013 San Mateo County Grand Jury report issued similar criticisms).⁴⁶ During the Commission’s November 2016 advisory meeting on healthcare districts, a fellow Sequoia board member, as well as the district’s chief executive officer, countered the criticism by citing continued support of voters for district operations and policies.

Healthcare District Bills and Outcomes: 2015-16 Legislative Session

During the 2015-16 legislative session lawmakers grappled several times with the issues of healthcare districts. Many involved an issue explored at the Commission’s August 25, 2016, hearing: legislative end runs around the local process, which requires LAFCO approval to dissolve and expand boundaries of districts. These issues clearly seemed to both frustrate and confound lawmakers, as nearly all were local issues with strains of local politics not always immediately apparent to legislators in Sacramento. The bills and their outcomes included:

- AB 2414 (Garcia), allowing the Desert Regional Healthcare District in Palm Springs to expand its boundaries into the eastern Coachella Valley without a full LAFCO review. Governor Brown signed the bill on September 21, 2016.
- AB 2471 (Quirk), expediting the dissolution of the Eden Township Healthcare District in Alameda County by ordering the LAFCO, under conditions specified in the legislation, to dissolve it. The bill was ordered to the inactive file on August 29, 2016, before reaching a final vote.
- AB 2737 (Bonta), bypassing LAFCO and the board of Eden Township Healthcare District to cap the district’s administrative expenses at 20 percent of its annual revenue. Governor Brown signed the bill on September 21, 2016.

Source: Legislative Information System. Bill analyses.

Directors of El Camino Healthcare District in Santa Clara County also questioned whether \$6.4 million in grants they approved in June 2016 were being put to good use considering failures by some of the same grantees to meet previous year’s expectations. The district grants fund mobile dental clinics and school therapists, as well as food giveaways and police-sponsored summer camp stays for at-risk youth.⁴⁷ Statewide, however, testimonials from community grantees abound in healthcare district annual reports and other publications about the importance of district grants to their operations. The ACHD, in August 25, 2016, written testimony also submitted successful grantmaking examples that included:

- \$738,700 in community-based mental health grants provided by the El Camino Healthcare District in 2015 and 2016.
- \$40,000 from Los Medanos Healthcare District from 2013 to 2016 to sponsor a breastfeeding program in response to low birthweights and higher infant mortality within the district.
- \$650,000 from Desert Healthcare District from 2013 to 2015 to help target and register approximately 90,000 area residents eligible for Medi-Cal and Covered California.
- \$35,000 from Fallbrook Health District in 2015 and 2016 to provide senior citizens free transportation to medical appointments, grocery stores, the food pantry and senior centers.

Dissolution Has Proved Itself a Persistent Question

County grand juries have found healthcare districts that do not run hospitals an inviting target. Four grand jury reports over a decade successfully prodded the 2012 dissolution of the Mount Diablo Healthcare District in Contra Costa County. The district hadn’t run a hospital since 1996 and, according to a Contra Costa County LAFCO consultant, “the health care district spent in the past decade 85 percent of its property tax proceeds on overhead, elections and legal bills.” In March 2012, the county LAFCO voted 6-1 to subsume the Mount Diablo district’s responsibilities into a new subsidiary district run by the City of Concord and transfer its property tax allocation to the city, as well.⁴⁸

Likewise, three grand juries over a decade criticized Pittsburg-based Los Medanos Community Healthcare District in Contra Costa County, which reportedly spent half of its 2010-2011 revenue on community and health programs and half on “administrative and operating expenses, including stipends for the board of directors, travel and election fees and a board retreat.”⁴⁹ In 2017, the district continues to exist and dispense grants in its community.

San Mateo County’s Peninsula Health Care District also is the subject of several grand jury reports since 2000. One in 2004 recommended that it and nearby Sequoia



Beach Cities Health District “Walking School Bus” Program. Courtesy Beach Cities Health District.

Healthcare District (also the subject of five grand jury examinations since 2000) merge their operations to cover the entirety of San Mateo County. No action resulted. The county grand jury in 2013 questioned whether Peninsula is, at its core, a commercial landlord, a real estate developer or a community health resource. The report suggested a closer examination by the county LAFCO and made no explicit call for the district's dissolution. In response, the district disagreed with the premise of the grand jury's question, writing that none of the three roles cited by the grand jury are

mutually exclusive, and all serve the needs of the district community.⁵⁰ The district's newest real estate project, a 124-unit assisted living and memory care center facility, is expected to open in early 2018.⁵¹

Healthcare districts generally have deflected criticisms of grand juries about their missions and prevailed with their own counterarguments about the necessity of their healthcare-centered real estate operations and grant programs. Yet the continuous public probing shows at the very least, a significant perception problem among

The Poster Child for Controversy: Eden Township Health District

Perhaps no district in recent years has fended off more pressure to dissolve than Alameda County's Eden Township Health District, formed in 1948, headquartered in Castro Valley and no longer running a hospital. As previously noted, AB 2471 (Quirk), which proposed to dissolve the district, passed the Assembly in 2016 and reached the Senate floor before being moved to the inactive file. The 2015-2016 Alameda County Grand Jury, in a report issued June 1, 2016, questioned whether the district should continue to exist. Grand jurors stated that the district:

"...provides no direct medical services and its forecasted grant awards to service providers account for a mere 12 percent of the district's total expenses. The Grand Jury found that 88 percent of the district's budget is spent on real estate, administration, legal and consulting fees. In effect, ETHD is essentially a commercial real estate management operation rather than an indirect (or direct) healthcare provider for citizens of the community."

The grand jury report prompted a series of local actions that led the Alameda County LAFCO to conduct a special study – released in December 2016 – to help determine its future. (The county LAFCO conducted a similar study in 2013 and concluded the district should continue in its current form. Eden executives, too, contend that dissolving the district would eliminate the option of funding local nonprofits from a "readily available taxing authority").

The new LACFO-commissioned study has again determined that the health district "provides a service of value, including significant expenditure of funds for community healthcare purposes consistent with its mission as a healthcare district." The study notes the district distributed nearly \$12 million in grants to nonprofit community health organizations from 1999 to 2015 – largely funded by rent received from three district-owned medical buildings.

Local elected officials have weighed in with dissenting views. The mayor of San Leandro said she believes the district has lost sight of its core mission and wants the district dissolved and its real estate assets used to support two other struggling area hospitals. An Alameda County supervisor has expressed similar sentiment. Further complicating this ongoing healthcare district controversy is who would be responsible for \$17.2 million the district, if dissolved, still owes Sacramento-based Sutter Health after losing a recent prolonged legal battle over the operations of San Leandro Hospital.

Sources: County of Alameda. 2015-2016 Alameda County Grand Jury Final Report. Page 43. June 1, 2016. Oakland, CA. <https://www.acgov.org/grandjury/final2015-2016.pdf>. Accessed January 12, 2017.

Jamie Wilkins. October 25, 2016. The San Leandro Patch. "San Leandro seeks Public Input for Eden Health District." <http://patch.com/california/sanleandro/san-leandro-seeks-public-input-eden-health-district>. Accessed January 12, 2017

Darin Moriki. January 6, 2017. The East Bay Times. "Mixed Opinions on Eden Health District's Future." <http://www.eastbaytimes.com/2017/01/06/mixed-opinions-abound-on-eden-health-districts-management-operations>. Accessed January 12, 2017.

Darin Moriki. December 29, 2016. The East Bay Times. "Eden Health District operations on track, study finds." <http://www.eastbaytimes.com/2016/12/29/eden-health-district-operations-on-track-study-finds>. Accessed January 12, 2017.

the public in how they operate and what is defined as healthcare.

Seeking a New Paradigm for Healthcare Districts

Mindful of the increasing political scrutiny and controversy regarding some of its member districts, the Association of California Healthcare Districts in 2016 engaged a

24-member expert task force to review how districts are perceived, where they are headed and how they might reposition themselves more effectively within a rapidly-changing healthcare environment that emphasizes preventive care. The task force approved four strategic recommendations on October 5, 2016, which ACHD shared with the Commission and others at the November 2016 advisory committee meeting. Those included:

- Updating the 1945 healthcare district enabling act and adding intent language to define today's

Beach Cities: Is This a Future of Healthcare Districts?

The Beach Cities Health District, which serves residents of Hermosa Beach, Manhattan Beach and Redondo Beach, offers one hint of how districts might retool themselves. The district, established in 1955, has no hospital and calls itself “one of the largest preventive health agencies in the nation.” The district encourages and helps children walk to school, eat right and lose weight, provides relatively-low cost memberships at a district fitness center and helps older people remain living at home through personal visits and in-home care. The district’s innovative Blue Zones Project branding effort also encourages healthy habits at home and work and promotes local restaurants that offer nutritious menus. The district, which receives 73 percent of its revenue from fees and other sources beyond its \$3.1 million annual property tax base (2016), also makes grants to community partners.

Asked if critics who support closing districts without hospitals may be thinking narrowly and not understand shifts in healthcare, Dr. Michelle Bholat answered, “Yes.” In written comments provided to the Commission in November 2016, Dr. Bholat explained, “Beach Cities Health District successfully transitioned in 1998 from disease-focused care to preventive care health services – largely because research from the Centers for Disease Control shows 70 percent of chronic illnesses are preventable, and healthcare cost savings associated with keeping people healthy and out of hospitals are substantial. Currently, the U.S. spends roughly \$3 trillion annually on healthcare costs.”

The district counts a major success in reducing childhood obesity in Redondo Beach K-5 students from 20 percent of children in 2004 to 7 percent in 2016 by working closely with the district’s 21 public schools and parents. Parents attend district training and teach nutrition in schools, said Dr. Bholat. The district identifies gaps in Los Angeles County Department of Public Health Department services, uses science and data to target specific community needs and measures program impacts with data collection and analysis, she said.

Beach Cities, often considered a model for transitioning California healthcare districts to preventive care, operates a Community Services Department which connects children and underinsured adults to medical, dental and mental health services; a LiveWell Kids program that provides elementary school students with daily physical education, nutritional and gardening information and fresh fruits and vegetables; and a Center for Health and Fitness with 3,000 members and free visits for police officers, firefighters and lifeguards. Their Community Services Department also works with nearly 20 percent of residents 85 and older to stay healthy at home.

In June 2016, U.S. Surgeon General Vivek Murthy visited the district, and told representatives, “We tend to believe that America’s health problems are too big and intractable. You have proven that communities can take charge and reverse the trend.”

Sources: Beach Cities Healthcare District. “BCHD Overview.” <http://bchd.org/bchd-centers-programs/center-health-and-fitness>. Accessed July 22, 2016. Dr. Michelle Bholat. Board Member. Beach Cities Health District. November 8, 2016. Written comments to the Commission. On file. Personal conversation with Beach Cities Health District officials on December 7, 2016 and July 21, 2017.

mission of healthcare districts: achieving health and wellness for the communities they serve. (The ACHD told the Commission the 1945 act is woefully outdated and reflects a healthcare landscape that largely no longer exists. The statute also only broadly and vaguely defines “healthcare,” which contributes to districts being criticized for operating outside the realm of healthcare, they said. They aim to introduce legislation in 2018 to modernize the act).

- Enhancing the oversight of healthcare districts by working collaboratively with LAFCOs to ensure timely, credible and relevant Municipal Service Reviews of healthcare districts.
- Enhancing ACHD’s current Certified District program to ensure that full transparency and good governance practices are met, as well as increase educational opportunities for healthcare districts, district trustees, district chief executive officers and district board clerks.
- Educating policymakers, the public and other stakeholders about the important role healthcare districts already play within the greater health care system.

Advisory Meeting: What Makes Healthcare Districts Special? Are They?

At the Commission’s November 2016 advisory committee meeting, participants helped the Commission understand the complexities of healthcare delivery and advised it in deliberations that informed its recommendations. District executives said healthcare districts manage healthcare as a single-purpose mission, making them more flexible than counties, which typically are strapped for funding and must balance many services beyond healthcare. Counties generally do not want more responsibility over healthcare, they said, noting that if healthcare districts went away and their property tax allocations were given to counties there is no guarantee that county supervisors would spend the money on healthcare. Already, district officials said, they are serving many residents neglected by their counties. Indeed, many healthcare districts were originally created to address needs that counties weren’t meeting, they said.

A Southern California healthcare district executive, citing voters’ general preference for close-to-the-ground government, suggested that public healthcare is better divided among many organizations than in a single county system “where it can get lost. That is what I worry about.”⁵²

How to Avoid Redundancies in Services Provided by Counties and Special Districts

Commissioners asked healthcare district representatives how they work with their counties to weed out redundancies in their collective healthcare work – a particularly important task, Commissioners said, if the Affordable Care Act is replaced and healthcare funding may become even more competitive. Bobbi Palmer, executive director of Fallbrook Regional Health District in San Diego County, said redundancies exist and continue due to lack of coordination. She said when she assumed command of the Fallbrook district in early 2016, she approached county officials “with a baseball bat and a smile, to say ‘we have needs that the county should be addressing.’” Now, county public health nurses, funded to provide the services, attend district wellness events and give vaccinations that would otherwise cost the district, Ms. Palmer said.

Dennis Zell, a board member for Burlingame-based Peninsula Healthcare District said his district only does work not being done by San Mateo County. The district performs a health needs assessment, he said, to determine where the needs are and what services exist, and then determine how the district can fill gaps. Mr. Zell said this includes seeking out nonprofit organizations, introducing them to county officials and in some cases, providing them seed money. He said Peninsula noticed a rash of teen suicides within the district, then contacted school districts to assess the problem and provided funding to districts and Stanford University to assist. “We did that in seven months,” he said. “Find a problem, find a solution and get it going.” Mr. Zell said the fact that Peninsula does not run a hospital is a positive, freeing the district to be an “engine of innovation” in government.

Making Healthcare Districts Better

Commissioners asked of the assembled experts, “There has to be things the Legislature can do to make

healthcare districts better. What can we recommend to the Legislature to improve things? If the Legislature were to be helpful [to healthcare districts] what could it do?"

Among the responses:

- Update and clarify the statutory language that, since 1945, has defined the roles, responsibilities and practices of districts. Executives widely agreed that legal language more than seven decades old speaks to a healthcare world that no longer exists.
- Empower LAFCOs to do stronger, smarter and more relevant Municipal Service Reviews. "We need LAFCOs in place to push us to be better," said one.
- Curtail a growing practice in the Legislature to pass bills that override and circumvent the LAFCO process to address healthcare district concerns. Those decisions are better made at the local level.
- Encourage districts to use better metrics to improve performance and measure outcomes. And help them to incorporate the same results driven-accountability into their grant giving.
- Help districts address inequities within counties when considering how to measure and improve healthcare outcomes. Many less affluent coastal residents of San Mateo County, for instance, pay property taxes to the county, but do not live within boundaries of the county's two healthcare districts that receive those taxes. They have no access to tax-subsidized health benefits available to wealthier healthcare district residents.

Start with One Thing (and Share it)

Commissioners also suggested during the advisory committee roundtable discussion that healthcare districts look to their counterparts in other localities for best practices. Said one Commissioner: there appears to be little information-sharing among the state's 79 healthcare districts. It was suggested to start, take a first step, by simply asking all 79 districts to answer a question such as, "What is the best practice on one thing?" Then the district's trade association or others could evaluate that "one thing" a year later to show what works and might be replicated on a larger scale.

Somewhat surprisingly to the Commission, the question got little traction and sparked scant discussion. Healthcare district representatives said they are interested in best practices, but noted all their districts are different and what works in a rural district likely doesn't translate to an urban or suburban district. One healthcare district board member cited the principle of local control and the importance of maintaining it against one-size-fits-all practices imposed by legislation. Another district chief executive said that since healthcare districts are locally funded and voters elect board members who hire staff, healthcare districts must be accountable first to their constituents. He said the primary responsibility of healthcare districts is to work within their areas and not focus on how the work is done elsewhere or how districts in the rest of the state might evaluate their work.

Another healthcare district board member, however, expressed support for a 58-county review of best practices if conducted by impartial public health professionals. The board member agreed on a need to aggregate best practices across healthcare districts, to get rid of programs that aren't working and focus money and energy on the four or five programs that work best.

Pressing the question, the Commission asked how healthcare district hospitals share information with one another about common, and often unforeseen, issues that some may be dealing with for the first time. A California Hospital Association representative said she often receives questions from member hospitals about how other hospitals are handling such issues. She recently coordinated, for example, conversations with healthcare district hospitals on how to conduct transgender patient registrations. The general manager of Lake County-based Redbud Healthcare District also noted, for example, that during the devastating wildfires that struck Lake County in 2016 he contacted the Feather River Healthcare District for advice about its actions in similar wildfire situations. The official said his district hospital (managed by Adventist Health System) often consults with other hospitals and belongs to a Northern California regional network set up for hospitals to share best practices.

What Should LAFCOs Decide about Healthcare Districts?

Experts and district officials convened by the Commission widely supported LAFCOs as the oversight entities best suited to advise and recommend options to special districts, including healthcare districts. Healthcare district officials and Association of California Healthcare Districts representatives stressed again the principle of local control and noted that across-the-board and statewide best practice recommendations may not always work at the local level. The advisory committee consensus held that local communities and LAFCOs are always better at determining what works and defining appropriate outcomes, including those for healthcare districts without hospitals.

A representative of the California Association of Local Agency Formation Commissions (CALAFCO) acknowledged that LAFCOs' Municipal Service Review studies, give them an important role in advising their local special districts. The executive said many LAFCOs can hire consultants and appropriate subject matter experts for the process, particularly as it relates to healthcare districts. She repeated a common theme of the advisory committee discussion – the 1945 enabling acts which established the ability of voters to form healthcare districts are out-of-date, making it difficult to assess the districts. "They are very antiquated and have not evolved with healthcare changes," the executive said. She also defended local control at a time when the Legislature is increasingly introducing bills to regulate individual healthcare districts. She said county LAFCOs are the agencies best suited to continue the work they do in advising and reviewing California's healthcare districts.

A California Special Districts Association official likewise contended that LAFCOs are ideal for initiating local processes regarding special districts, including gathering local input, providing local analysis and giving local voters a final say. He told the Commission it is key to remember the local role that healthcare districts play in convening people and collaborating with local institutions to be responsive to community needs. Decisions should remain local, he said, kept in the hands of healthcare districts, empowering locals to do what they do best.

RECOMMENDATIONS

The Commission has had vigorous discussions about the relevance and future of healthcare districts without hospitals. Among possible legislative proposals discussed was giving districts without hospitals three years to disband and to redistribute their property tax allocations elsewhere within their respective counties. Also extensively discussed was maintaining the principle of local control. If local residents continue to support their healthcare districts and their practices of allocating property taxes as community grant funds, that is a matter of local choice. LAFCOs, too, are an instrument of local policy, reflecting the will of local elected officials whom voters can keep or remove from office. If it is taken as a matter of faith, however, that these are local issues what then should be the role of the state and the Legislature regarding the institutional authority of special districts which it has created through various statutes over many decades and oversees? Recommendations supported by the Commission:

Recommendation 12: The Legislature should update the 1945 legislative "practice acts" that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s.

The Commission supports this recommendation, suggested by the Association of California Healthcare Districts and various others, to better define the mission of healthcare districts and will work with the association and others to support this legislative reform effort.

Recommendation 13: The Legislature, which has been increasingly inclined to override local LAFCO processes to press changes on healthcare districts, should defer these decisions to LAFCOs, which in statute already have that responsibility.

LAFCOs have shown successes in shaping the healthcare district landscape and should be the primary driver of change. Given the controversies over healthcare districts, the California Association of Local Agency Formation Commissions and statewide LAFCOs should be at the forefront of studying the relevance of healthcare districts, potential consolidations and dissolutions of districts. The Commission also supports the Association of California Healthcare District's commitment to build stronger bridges to LAFCOs statewide and help develop new

assessment tools for LAFCOs to analyze the relevance of districts during municipal service reviews.

To repeat a theme of Recommendation 1, the Legislature should retain its authority to dissolve healthcare districts or modify boundaries and administrative practices, but this authority should be limited to cases in which local political elites are so intransigent or negligent – or so beholden to local power structures – that some form of higher political authority is deemed necessary.

Recommendation 14: The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves.

A Commission advisory committee meeting discussion clearly showed that not enough thought or interest has been assigned to sharing what works best in rural, suburban and urban areas among members. The association should formally survey its members and collectively define their leading best practices and models for healthcare, as well as guidelines to improve the impacts of grant-making in communities.

Readying California for Climate Change

“Looking over several emission scenarios and using a suite of global climate models, the Assessment projects that annual average temperatures will increase between 1.8 and 5.4 degrees Fahrenheit by the middle of this century, and between 3.6 and 9 degrees Fahrenheit by the end of the century. These increases in temperature will be accompanied by rising sea levels and declines in mountain snowpack, while the state will continue to see similar temporal patterns in precipitation, with more falling as rain than as snow. California will also see an increase in the frequency and severity of extreme events.”

Louise Bedsworth, deputy director, Governor’s Office of Planning and Research. Testimony at the Commission’s October 27, 2016, hearing.

California’s ability to maintain its famed economic competitiveness and stature as a driving force of the global economy will soon hinge on much more than a legendary stock of private sector brainpower and know-how. The best and brightest of California’s public sector also must confront the impact of climate change, doing their part to govern to minimize disorder amid inevitable disruptions. When competitor nations and states stumble and develop reputations for instability due to sea level rise and flooding, wildfire, extreme heat episodes and drought, California must remain reliable, dependable and able to keep getting things done.

A surprising amount of these responsibilities will fall to California’s special districts. Their vigilance will be necessary to keep vital sectors of California’s \$2.6 trillion annual economy viable as temperatures and ocean levels rise, the Sierra snowpack dwindles and irregular precipitation patterns range between extended drought and superstorms.⁵³

The widespread institutional inability to think coherently about climate change impacts represented a key finding in the Commission’s July 2014 report, *Governing California Through Climate Change*. Special districts, like other local governments, grapple with endless conflicting climate change assessments and scenarios – almost none of them scaled down to their particular locations – when trying to analyze what they might do. Most have no access to a definitive, centralized source of climate change impact information, though the Governor’s Office of Planning and Research (OPR) is building a one-stop clearinghouse of climate impact material for local governments statewide. That information resource is a result of 2015 legislation, SB 246 (Wieckowski) enacted by the Legislature and signed by Governor Brown in the wake of the Commission’s 2014 report.

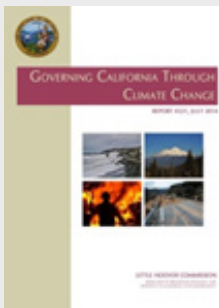
Some special districts are already at the forefront in preparing and investing for anticipated climate instability. These districts do not always call it climate change. Some call it a change in weather patterns and plan for it under that umbrella. Many simply plan for drought, a climate change condition which has already manifested itself across the Golden State. Their individual and collective efforts are encouraging – and should serve as models for other special districts that have yet to grapple with what’s coming.

Special districts are generally missing from the policy discussions, major conferences and research gatherings regarding local government preparations for climate change. These policy efforts tend to focus on cities and counties which make land use decisions – that is, decide how and where they will develop infrastructure and grow their residential, commercial and industrial neighborhoods. Yet many special districts also are missing in action because they are small and consumed with day-to-day operations. Like many local governments across California, they have little time or financial resources to look beyond the immediate, let alone consider longer-range climate scenarios that are at best uncertain.

Ample opportunity exists, however, for special districts to “engage in and support adaptation efforts, both in resource tool development, but also in contributing to adaptation and resilience efforts on the ground,” said Louise Bedsworth, deputy director of OPR, testifying at the Commission’s October 27, 2016, hearing. In testimony, Ms. Bedsworth also urged districts already preparing for climate impacts to document and share their experiences with the new Integrated Climate Adaptation and Resilience Program information clearinghouse within OPR. She, too, encouraged special districts to provide input to research projects being

conducted within the state’s fourth formal Climate Assessment. (The fourth assessment is a \$4.5 million research effort managed by the California Natural Resources Agency and the California Energy Commission to better understand climate risks and management options to help “the state to prioritize actions and investments to safeguard the people, economy and natural resources of California”).⁵⁴ Ms. Bedsworth also called on districts to step up information sharing within their trade associations as they individually integrate climate change considerations into their infrastructure investments. Finally, she urged more public engagement

A Snapshot: The Commission’s 2014 Climate Change Adaptation Report



Governing California Through Climate Change released by the Commission in July 2014 after a year-long study process, made a case that California state government should bring the same focus to climate change adaptation that it brings to reducing emissions. The report contended that the foundations of California’s role in the global economy must continue with a minimum of disruption through wilder weather and rising seas – and cited a lack of definitive information and preparation, especially within local governments and special districts most likely to be on the front lines of preventing and addressing climate change impacts.

The Commission recommended:

- The Governor create a new agency or empower an existing agency to establish the best state science on anticipated impacts and help state and local decision-makers assess their risks based on that science.
- State government at all levels incorporate climate risk assessment into everyday planning and governing processes.
- The Legislature expand the mission of the Strategic Growth Council beyond reducing greenhouse gas emissions to focus equally on climate change adaptation.

The report also called for state government to aggressively enforce defensible space requirements to minimize wildfires and property damage, and the Governor to work with state agencies to clarify the impact of sea level rise on California’s Common Law Public Trust Doctrine before a rising ocean begins to condemn private property in coastal areas.

In response, the Legislature passed three bills, all signed by Governor Brown, to carry out specific recommendations:

- SB 246 (Wieczowski) designated the Governor’s Office of Planning and Research as the lead entity on climate adaptation and established both a central clearinghouse of information to help local governments plan for climate impacts and a science advisory council to provide scientific support.
- AB 1482 (Gordon) required the Natural Resources Agency, in coordination with the Strategic Growth Council, to coordinate across state agencies to be sure state funding maximizes key adaptation objectives.
- SB 379 (Jackson) required that the safety element of local general plans address local climate change adaptation and resiliency strategies.

with residents about what’s coming:

“In many cases, special districts have direct relationships with local residents and businesses. These relationships provide the opportunity to support individuals and businesses to undertake actions that can increase their own resilience and that of the broader community.”

The urgency of climate change demands that special districts act as leaders on adapting to its impacts. Special districts are the most common form of local government in California and are frequently on the front lines of water delivery, wastewater treatment and flood control. Without leadership of this critical government sector, disruptions will be unpleasant and expensive. Consider St. Petersburg, Florida, home to three big sewage spills since 2015, as heavy rains leaked into and overwhelmed an aging wastewater treatment system. “Climate change has arrived and this is what it looks like,” Mayor Rick Kriseman told the media in 2016 as he presided over millions of gallons of partially treated human waste flowing out of manhole covers onto city streets and into Tampa Bay.⁵⁵

In California, scientists agree that climate change promises either too little water, as in the sustained,

severe drought that so recently gripped much of the state, or too much water, as in the type of wilder weather and big wet storms that overran California in 2017.

The robust discussion on special district reserves at the August 25, 2016, hearing prompted Chair Pedro Nava to ask the districts how climate change adaptation strategies were being included in district reserve policies. As a result of this question, the Commission scheduled a second hearing as part of this review on October 27, 2016, focusing on how leading-edge special districts are planning and investing for climate change. In keeping with the theme of appropriately investing special district reserve funds in long-term infrastructure, the Commission invited testimony from five districts with the massive infrastructure backbones that will be needed to dependably deliver water, treat wastewater and prevent flooding in a volatile climate.

Collectively, their stories make excellent case studies for how special districts are sizing up disruptive climate scenarios, assessing their vulnerabilities and investing in appropriate infrastructure to be flexible for too much or too little water. This chapter offers a wealth of examples and models for other districts to consider in their own strategy planning. Especially interesting is how some districts are creating regional partnerships to prepare for the worst. Special districts and their trade associations, too, are thinking ahead to regulatory changes necessary to move government rulemaking beyond a status quo

Also: A Brief Look at California Wildfires

The Commission, at its August 25, 2016, hearing, similarly invited a rural fire protection district to discuss one of the most obvious, rising climate threats of all – wildfire. The Commission heard that many rural fire districts desperately want to step up to their climate change challenge, but are constrained by poor finances. North Tahoe Fire Protection District Chief Michael Schwartz testified that rising numbers of fire districts, especially in rural mountainous areas, face bankruptcy scenarios in the next few years – even as their regions face worsening firestorms due to a warming climate, drought and tree mortality crisis. “A lot of districts are on the verge of failure,” he testified. “They will run out of capital in the next year or two.”

Chief Schwartz told the Commission that growing fire district stresses stem from the customary revenue challenges in the wake of Proposition 13 restrictions on property taxes, but also increasingly from inability of districts to reach the two-thirds majorities needed to approve special new property taxes. “I don’t think I would even try it now,” Chief Schwartz said.

At its October 2017 business meeting, the Commission decided to delve deeper into forest management practices in light of the tree mortality crisis and launched a full study on this topic in 2017. The Commission anticipates adopting a report on forest management in late 2017 or early 2018.

that may no longer be relevant for water delivery and wastewater treatment as climate uncertainty deepens.

On a practical level, the Commission learned at its October 27, 2016, hearing that many of these districts are reducing their dependence on imported water by diversifying supplies and producing vastly more recycled water. Many are steering more stormwater runoff in wet years into groundwater recharge basins for use in dry years. In one case, a Southern California district pays farmers to replace water-intensive avocado crops with wine grapes, creating a win-win of reduced water demand and the economic development of wine tourism.

Clearly, some districts are already well along on the climate adaptation strategies and actions that many special districts must eventually implement for a changing climate – with an added benefit of generating thousands of engineering and construction jobs. The leading-edge actions and infrastructure spending strategies detailed at the Commission’s hearing offer a window, as well as a road map, for special districts that have yet to engage or prepare for what Governor Brown in 2013 described as “the world’s greatest existential challenge – the stability of our climate on which we all depend.”⁵⁶

“Water and wastewater agencies, such as EMWD (Eastern Municipal Water District, Riverside County), have been looking at climate-change related actions for years. We might not have grouped it under the “climate change” umbrella or even used those words to describe what we are doing, but we have long had an environmental stewardship and water use efficiency ethic.

“For adaptability, we have focused on the potential for and reality of longer, more intense droughts and heat waves, less snowpack and early runoff. We have made significant investments in developing climate-resilient water supplies and reducing per capita water consumption. The combination of local supplies and conservation directly reduces our District’s dependence on more greenhouse gas-intensive supplies.”

Paul D. Jones II, General Manager, and Deborah S. Cherney, Deputy General Manager. Eastern Municipal Water District. November 14, 2016, letter to Little Hoover Commission Chair Pedro Nava.

As Imported Water Dwindles, a Climate-Driven Rush to New Sources

California’s storied history is filled with powerful cycles of boom and bust development, during which boosters of agriculture, cities and suburbs formed special districts to find and deliver water from below ground or distant mountain reservoirs. Now, stung by historic drought in California and the Colorado River basin, special district water managers must contend with a world-class water delivery system clearly inadequate for the variability of a changing climate. The Association of California Water Agencies, a Sacramento-based association representing special districts and agencies that supply 90 percent of California’s water explained the climate problem that water managers face:

“Less snow is falling in the Sierra Nevada and melting faster, with peak runoff levels occurring earlier in the year. The Department of Water Resources is projecting that the California snowpack will decline by 25 to 40 percent by 2050, thereby significantly reducing the amount of water that is stored at higher elevations for use during the summer and fall.”⁵⁷

Brandon J. Goshi, manager of water policy and strategy for the Metropolitan Water District of Southern California, offered a similar climate assessment in a November 22, 2016, letter to Little Hoover Commission Chair Pedro Nava:

“The past ten years, and in particular, the unprecedented drought conditions of the past five years, have given us a glimpse of the water supply and demand challenges that climate change will pose. Local rainfall in Southern California has been sharply below normal for that period, and our source waters have already experienced the range of higher temperatures and reduced snowpack that is being foreseen by climate change scientists.”

At the Commission’s hearing, executives of two special districts in the business of water delivery – one in Southern California, another in Northern California –

testified about their responses to this “new normal” within California’s climate. Each explained to the Commission how they are identifying and creating new water supplies to ease dependence on water imported from faraway high-country reservoirs.

The Rancho California Water District (Riverside County)

The Temecula-based Rancho California Water District, created in 1965 with 5,000 customer accounts, serves 45,000 customers now in a rapidly-suburbanized part of eastern Riverside County. Residential and commercial users dominate the customer base. Yet the region’s traditional agricultural sector of citrus, avocados and wine grapes, while fewer than 5 percent of customer accounts, still accounts for 40 percent of water use, the district stated in written testimony.

Presently, the district’s groundwater basin supplies 43 percent of demand. Treated imported water from the Metropolitan Water District (MWD) – 500 percent more costly than local well water, according to the district’s testimony – supplies an additional 32 percent of local demand. Another 18 percent comes from district purchases of untreated water from MWD to recharge its groundwater aquifer. The remaining 7 percent comes from recycled water, a rising source locally and for water districts statewide.⁵⁸ Ultimately, at buildout of its still-developing service area, the district expects to supply double its current demand for water – a daunting challenge in an era of climate uncertainty.⁵⁹ Key to meeting that challenge, the district reported, is a 50-year Long Range Financial Plan that envisions \$2.4 billion for new and replacement infrastructure and facilities, according to the district’s written testimony.

At the October 2016 hearing, Jeffrey D. Armstrong, district general manager, detailed for the Commission three significant initiatives to broaden supply options. All showcase the ingenuity with which Southern California water districts are meeting the needs of growing populations with less water:

Permanent Conservation. “On the climate change side there’s really two things,” he told the Commission. “There’s the supply side. And then there is the demand management side that we’re doing.” Mr. Armstrong said

the district has reduced water demand by more than 20 percent through conservation alone. Though mandatory conservation targets have been lifted by the state, he said, “We still are asking our customers to conserve and be efficient. A lot of the changes that took place in the last year, I think, are permanent changes. Where in Southern California you see grass and medians converted to California-friendly landscapes and those then put on drip systems, when we look at some of those accounts, their water use dropped by 70 percent. I don’t think anybody’s going to change those back to grass. So some of those savings really are long term and continue,” Mr. Armstrong told the Commission.

“We are one of the agencies where every one of our customers does have a meter, including our agricultural customers. We know for every one of our agricultural accounts what type of crop they have planted on their grove or farm, and we know the amount of acreage that they have there. So we know the amount of water that should be used there to be efficient and we build water budgets for our agricultural customers and tell them what efficient water use is, and if they go over that they pay a higher penalty. We take those penalties and we hold those in reserves and we use those to roll back into efficiency programs to help our agricultural customers become more efficient. And one of those we’re doing right now is, we’re calling it a crop swap, where we have primarily avocados, wine grapes and citrus. Avocados use twice as much water as wine grapes. But some of those areas where avocados are planted are very suitable for wine grapes and we’re going to help fund the conversion from avocados to wine grapes. It reduces the water use in half and still maintains the economic benefits of agriculture in our community, the viability of the farming as well as tourism that comes from that.”

Jeffrey D. Armstrong, General Manager, Rancho California Water District, addressing the Commission October 27, 2016.

Crop Swap. In late 2016 the Rancho California Water District unveiled a program to pay farmers up to \$15,000 per acre to replace thirsty avocado crops with less water-intensive wine grapes, thanks to a \$2 million grant from the Department of Water Resources and \$1 million from the U.S. Bureau of Reclamation. The district estimates it will save nearly 4,000 acre-feet of water in the next decade, enough to meet demands of nearly 8,000 households.⁶⁰

Additional water storage options. In 2010, the district built a \$10 million pipeline to buy untreated water in wet years and channel it into its Lake Vail reservoir for additional supply in dry years. Four years later, the district spent \$55 million in reserve funds to buy 7,500

acres of land surrounding the reservoir. The purchase allowed the district to remove legal restrictions that previously maintained a fixed lake level for boating and recreation. Mr. Armstrong told the Commission, “When we acquired the land, that removed the recreational rights. It allows us to use the full capacity of that lake and reservoir for water supply purposes, and we’ve done that during the drought. We really reduced the amount of water in that lake.... In terms of climate change, where we’re hearing about longer periods without rain followed by periods of greater rainfall, it really gives us opportunity to take advantage of that climate change because we can draw the capacity down and then when the bigger events happen we can fill the reservoir back up.”

How Other Districts are Preparing for Significant Climate Impacts

- The **Los Angeles-based Metropolitan Water District** invested \$450 million to pay customers to remove lawns and replace them with drought-resilient landscaping.
- The **Eastern Municipal Water District** in Perris, Riverside County, reuses 100 percent of its wastewater through investments in recycled water. Recycled wastewater represents more than a third of the district’s water supplies and supports agriculture, commercial and industrial uses, as well as irrigation for public parks and outdoor spaces. The district also incentivized customers to remove four million square feet of turf and replace it with drought-proof landscaping.
- The **San Diego Water Authority** is raising the San Vicente Dam to create 100,000 acre- feet (32 billion gallons) of new storage capacity and reduce dependence on imported water. It also is constructing the Carlsbad Desalinization Project to provide an extra 56,000 acre-feet (18 billion gallons) of usable water annually.
- The **Santa Rosa-based Sonoma County Water Agency** invested \$843,000 in a comprehensive climate vulnerability assessment to identify climate change risks and develop adaptation options for its water supply, flood control and sanitation facilities.
- The **Soquel Creek Water District** in Capitola, Santa Cruz County, is developing a groundwater model to simulate climate change scenarios in preparation to spend up to \$70 million on an advanced water purification project for groundwater recharge.

Sources: Wendy Ridderbusch, Director of State Relations, Association of California Water Agencies, Sacramento, CA, September 13, 2016, Personal communication. Also, Paul D. Jones II, General Manager, and Deborah S. Cherney, Deputy General Manager, November 14, 2016, letter to Little Hoover Commission Chair Pedro Nava.

“Water agencies engaging in climate change planning must think carefully and thoughtfully about the right combination of funding to achieve a stable and reliable financing portfolio. Just as a family household puts money away in a savings account to purchase a new automatic dishwasher when the old one breaks down, a water agency will set aside funds in a designated reserve fund for a specific project. For instance, a water storage project, which could cost hundreds of millions of dollars to complete, from the initial feasibility studies all the way to completion. The funding is responsibly and separately saved for future use. In addition to utilizing reserves to help build water infrastructure the ability to maintain reasonable reserves is a critical factor in providing reliable service, mitigating rate increases and supporting an agency’s overall financial strength. Reserve levels directly affect an agency’s bond rating, and ultimately, its ability to access debt markets at favorable interest rates, ensuring the ability to finance and construct the infrastructure necessary to renew existing systems and expand service levels to meet future needs. And while our member agencies rely upon several different sources of state and federal income to augment these infrastructure funds, the reality is that the majority of funding of water in California is derived from the water districts themselves.”

Wendy Ridderbusch, Director of State Relations.
Association of California Water Agencies. Testimony
at October 27, 2016, hearing.

The East Bay Municipal Utility District (Alameda County)

Unlike the Rancho California Water District with its rich natural underground reservoir, the Oakland-based East Bay Municipal Utility District (EBMUD) serves 1.4 million customers in Alameda and Contra Costa counties with almost no groundwater basins. The water district instead taps the Mokelumne River in the central Sierra Nevada for 90 percent of its supply. The district leads

its mountain water westward from the Pardee and Camanche reservoirs via three above-ground aqueducts across the Central Valley into the East Bay. But EBMUD, too, is diversifying its water sources as high-country winter snowpack dwindles and climate uncertainty looms. Alexander R. Coate, district general manager, testified to the Commission about several major initiatives to broaden supplies. The district, which in written testimony, called itself “a water industry leader in addressing climate change,” has, indeed, set a lesson for special districts statewide by preparing a formal climate change vulnerability assessment of risks to its system and customers. Among initiatives described in testimony:

Diversifying. In 2010, the East Bay Municipal Utility District opened – with its partnering agency, the Sacramento County Water Agency – the \$1 billion Freeport Regional Water Project south of downtown Sacramento to divert supplies from the American and Sacramento rivers during dry years. The project is the culmination of a 40-year district legal strategy to gain rights to additional Central Valley Project water to supplement its Sierra Nevada supplies. Mr. Coate told Commissioners the river water supplied up to approximately one-half the drinking water in its East Bay region in 2015.

Conservation. “Conservation is a way of life. We’ve been conserving for decades,” Mr. Coate told the Commission. “California’s known for its droughts and we’ve embraced that approach. In 2005, 2006 and 2007, we were selling 200 million gallons of water per day. That’s the same amount of water we were selling in the early 1970s, except we had 30 percent more people that we’re providing it to. And since 2005, 2006 and 2007, our customers have conserved and conserved again. We’re the only business that is out there trying to get people to use less of their product. It’s a very unique business model. The last year of the drought, just a year ago, our customers were using 128 millions of gallons per day,” he said.

Regional partnerships: Mr. Coate also described to the Commission the Bay Area Regional Water Supply Reliability partnership, which aims for collective readiness for climate impacts. “We’re also very focused on partnerships, on leveraging those,” he said. “They work well, and in the Bay Area right now we’re are partnering with a total of eight water agencies that represent six million customers on a regional reliability study and using

funding from the U.S. Bureau of Reclamation focused not necessarily on building a lot of new facilities, but looking at how we can interconnect and network our facilities and make improvements within our facilities so that we can share resources, both infrastructure resources and water resources to improve the reliability for our customers.”

Mr. Coate testified: “That’s particularly helpful for emergencies when somebody might be in need and another agency would be able to provide resources.”

Mr. Coate urged the state to provide districts the flexibility to meet climate impacts, not with “one-size-fits-all mandates,” but with their own individual and regional approaches. “Flexibility allows us to come up with approaches where we can figure it out. We have been for decades. We were very prepared for this drought,” he said, “and able to have no impact to the economy and still keep our customers with water.”

Mr. Coate, asked for recommendations the Commission might make to the state, also noted, “We really can use additional information, research information. We have an understanding that climate change is happening, but the error bars on the models are pretty big. So we’re working in, kind of using a sensitivity analysis approach. It’s like putting brackets around things. But research could narrow that and help us understand what’s going to happen in our region, more specifically so.

“We’re the only business that is out there trying to get customers to use less of their product.”

Alexander R. Coate. General Manager, East Bay Municipal District, addressing the Commission October 27, 2016.

The Wastewater World Already is Complicated; Now Comes Climate Change

Nonstop, behind the scenes of California’s daily living, 66 independent special districts and 37 dependent county districts collect billions of gallons of wastewater and treat it for re-use or disposal into rivers, bays and the Pacific Ocean. Sanitation district managers, overseeing vast expanses of costly infrastructure – miles of small

How East Bay Municipal Utilities District (EBMUD) is Vulnerable to Climate Change

- “Changes in the timing, intensity, location and amount of precipitation could have impacts on the reliability of EBMUD’s water supply. Droughts may become more frequent. In addition, storm tracks are predicted to move northwards, which could decrease average precipitation for EBMUD.”
- An increase in temperature can lead to an increase in customer demand for water.
- Forested areas within the district could lead to increased water demand for fire suppression.
- Higher average water temperatures in district reservoirs in the Sierra Nevada could require more water to maintain a cool pool for fish.
- More intense storms and wildfires near district reservoirs could increase sediment and nutrient levels in water storage areas, requiring more treatment.
- Water shortages and drought may lead to more frequent and severe water rationing.
- Costs may increase to bring in supplemental supplies or develop still more projects to diversify supplies.

What the District is Doing About it

- Planning to adjust its water supply portfolio as impacts of climate change manifest.
- Identifying a wide range of supplemental supply, recycled water and conservation projects.
- Incorporating climate change considerations into all master plans.
- Collaborating with other agencies to assess vulnerabilities and adaptation strategies.

Source: East Bay Municipal Utility District. Urban Water Management Plan 2015. “Appendix J: Climate Change Vulnerability Assessment.” Pages J1-J5. Oakland, CA. file:///C:/Users/wasserjd/Downloads/UWMP-2015-_BOOK-FINALweb_secure%20(1).pdf. Accessed September 28, 2016.

lateral pipelines leading to bigger trunk lines leading to regional pumping stations and treatment plants – widely expect their agencies to “experience the first significant infrastructure impacts of climate change” with all the attendant costs and regulatory challenges – as one district manager testified in 2013 to the Assembly Select Committee on Sea Level Rise and the California Economy.⁶¹ One national estimate suggests “the total estimated cost of wastewater agencies to adapt to climate change in the U.S. is between \$123 billion and \$252 billion above existing wastewater system infrastructure upgrade, renewal and replacement programs.”⁶²

At the October 27, 2016, hearing, the Commission learned about the formidable wastewater treatment complexities inherent within a central expectation of climate change – long periods of too little water mixed with short explosive bursts of too much water.

The East Bay Municipal Utilities District (Wastewater Division)

Mr. Coate, who also oversees collection and treatment of wastewater for 680,000 customers, said his chief climate adaptation concerns are the forecasts for powerful Pacific storms and precipitation deluges that get into wastewater systems, overwhelm them and cause untreated discharges into the ocean. Mr. Coate, in written testimony for the

Commission’s October 27, 2016, hearing, stated:

“During and after heavy storms, rain and groundwater enter underground sewer pipes through cracks, increasing the volume of water in the system, and eventually causing overflows. This is called “infiltration and inflow” and is a common occurrence in cities across the country with older infrastructure. Climate change is expected to impact the level of infiltration and inflow via the frequency and magnitude of more extreme wet weather storm events and rising groundwater levels due to sea level rise.”

The concern is reasonable. After a 2013 superstorm in Detroit, 110 million gallons of raw sewage flowed into the Detroit River, overwhelming the city’s aging sanitation system.⁶³ St. Petersburg’s similar issues were noted earlier in this chapter. California has its own problems: 250,000 gallons of untreated wastewater entered the Los Angeles River and polluted the Pacific Ocean when a spring 2011 storm dumped up to 10 inches of rain over parts of Los Angeles region.⁶⁴

Mr. Coate also testified about a unique adaptive response to these concerns in his district’s service area, which may be worth considering in some form in other regions with pre-1950s development patterns:

Wastewater Facilities Will Be Hardest Hit by Climate Change

“Wastewater treatment facilities will be among the hardest hit by climate change, in part because treatment plants are generally located at the low point in each watershed to make efficient use of gravity for conveyance purposes. This means that in coastal areas, wastewater facilities are often located along the coast or within an estuary and have ocean or bay outfalls with a direct hydraulic connection to their facility. Inland facilities also typically have geographically low-lying plants and outfalls within river valleys and floodplains. As the sea level rises – an expected 0.6 to 1.4 meters for the California coast – and storm surges increase in coastal areas, facility outfall elevations may need to be increased or may require pumping in order to discharge. Inundation of facilities, including higher coastal groundwater levels causes more inflow of brackish or salty water that, in turn, requires higher volumes or treatment levels and makes water recycling more energy intensive. Increased inland flooding events will put critical infrastructure and service at risk of failure.”

Jessica Gauger, Manager of Legislative Affairs. California Association of Sanitation Agencies. October 11, 2016, letter to Commission Chair Pedro Nava.

Mandatory sewer lateral repairs at point of sale. On November 28, 2014, a regional private sewer lateral ordinance went into effect within EBMUD’s wastewater service area, requiring inspections when a property is sold or undergoing a remodel of more than \$100,000, of private lateral sewer lines that connect the property to the district system. When a sewer line needs repair, the buyer or seller – or both – must pay to have it fixed. Many of these aging and broken pipes act as conduits for stormwater to enter and overwhelm the district’s treatment plant and spill partially-treated sewage into San Francisco Bay. The ordinance, in effect in Alameda, Albany, Emeryville, Oakland, Piedmont, Kensington, El Cerrito and Richmond Annex, results from a 2009 order by the U.S. Environmental Protection Agency and San Francisco Bay Regional Water Quality Control Board to fix the district’s older, cracked sewer lines.⁶⁵ The City of Berkeley, since October 2006, has implemented similar requirements for inspections and repairs as part of real estate transactions.⁶⁶

Sanitation Districts of Los Angeles County

In Southern California, extended drought and water shortages have created the opposite problem for sanitation district managers: too little water creates an additional, costly range of complexities for wastewater treatment. Nonetheless, years of drought also has triggered a surge in recycled water production throughout Southern California, and is creating an entirely new water supply to supplement imported water. In testimony, Philip L. Friess, head of the technical services department of the Sanitation Districts of Los Angeles County, a unique collaboration of 24 individual sanitation districts serving 78 cities and 5.5 million people, described a wastewater agency and region leading the nation in addressing key anticipated water-supply impacts of climate change.

“Today, the Sanitation Districts are one of the top producers of beneficially reused recycled water in California and the United States.”

Philip L. Friess, head of technical services department, Sanitation Districts of Los Angeles County, in written October 27, 2016, testimony to the Commission.

Organizationally, each of the 24 districts in this regional collaboration is an independent special district with their own ability to issue debt and set customer rates for their individual infrastructure needs. Collectively, as a regional super-district, they also finance, maintain and operate a regional wastewater collection and treatment system run by a single Whittier-based headquarters staff. Individual districts each collect property taxes, charge fees for wastewater services, keep a share of reserve funds – equal to six months of operations and maintenance expenses, plus one year of debt service – and are overseen by individual boards made up of mayors of cities included in the district.

When Faraway Imported Water Runs Short

Mr. Friess told the Commission, “With regard to recycled water, the Sanitation Districts recycled water program is of great importance to Southern California’s efforts at climate change adaptation. Recycled water is considered a drought-proof local water supply because it is available consistently, whether it rains or not, and helps make local communities in Southern California more resilient to the impacts of climate change on water supply.” He further testified, “Recycled water currently comprises 7.5 percent of Los Angeles County’s overall water supply. And area water managers are seeking to implement new water recycling projects to increase the amount of recycled water in the water supply, and I’ll highlight two of those.”

Both highlighted projects involve forward-looking regional partnerships of special districts, the kind that increasingly will be necessary to alleviate the impacts of climate change in years and decades ahead:

An end to imported water recharging groundwater basins. The Sanitation Districts of Los Angeles County, with more than a half century of recycling treated wastewater for groundwater recharge, is partnering on its newest recycled water project with the Water Replenishment District of Southern California (WRD) and the Los Angeles County Flood Control District. A \$110 million Groundwater Reliability Improvement Project facility, designed to produce an additional 19 million gallons of treated wastewater daily for groundwater recharge, marks an historic shift in ending the use of imported water for that purpose. Mr. Friess, in written testimony to the Commission, cited remarks by the

replenishment district's board chair, Willard H. Murray, Jr., at its 2016 groundbreaking. Mr. Murray, highlighting the momentous break with a distant water supply becoming increasingly unreliable as the climate changes, said: "The Los Angeles region has a long and sometimes colorful history of importing water to quench our thirst. With this project WRD will be turning a corner in our water history. WRD's future will be built on water recycling, drought-proofing our water supplies and ending our reliance on imported water."

How Climate Change Investments Stimulate Job Creation

Climate change investments on the scale of \$2.7 billion and \$110 million to reduce dependence on imported water and increase use of recycled water have more than conservation and environmental ramifications; they are job and income generators. These economic benefits largely stay in the region and ripple outward to support businesses involved in construction, architecture, engineering, scientific research and development services, reported a 2011 study of Los Angeles-area projects by the Los Angeles-based Economic Roundtable.

The study, mindful of the region's "increasing pressure to reduce reliance on imported water by using what we have more efficiently," sampled the multiplier impacts of \$1.2 billion in recent area water efficiency projects involving recycled water, stormwater and groundwater management. The study estimated that every \$1 million invested generated 12.6 to 16.6 year-long jobs depending on the type of project. That compared with new housing construction (11.3 jobs per \$1 million invested) and motion picture production (8.3 jobs per \$1 million).

Study author and senior researcher Patrick Burns stated, "Los Angeles needs to use the water it has more efficiently, and a dividend from doing this is that we will open doors for job seekers, including young adults eager to gain skills in the emerging field of water-use efficiency."

Source: The Economic Roundtable. December 6, 2011. "Water Use Efficiency and Jobs." Los Angeles, CA. <https://economicrt.org/publication/water-use-efficiency-and-jobs>. Accessed December 28, 2016.

Treated wastewater to inland groundwater basins, not discharged to the ocean. Likewise, the Sanitation Districts of Los Angeles County also is partnering with the Metropolitan Water District (MWD) on a proposed water purification facility at the districts' Joint Water Pollution Control plant in Carson. The aim: to divert up to 150 million gallons daily of wastewater currently discharged into the Pacific Ocean via 60 miles of pipeline to groundwater recharge basins in Los Angeles and Orange counties. "That's a \$2.7 billion capital cost plant," Mr. Friess told the Commission at the October 2016 hearing. "The water it produces will be about \$1,600 per acre foot. And if that's approved (by the MWD board of directors) that would be about eight to 10 years in the future." Mr. Friess added, "They have finished the feasibility study. They are in design for a demonstration facility to kind of fine tune the design parameters. I think the approval to move forward with the full-scale project hopefully would occur next year (2017)."

The Commission has learned that similar water reuse efforts are well underway in neighboring Orange County, where the Orange County Sanitation District and Orange County Water District have jointly partnered since 2008 on the Groundwater Replenishment System. The joint groundwater system produces enough new water for nearly 850,000 residents in north and central Orange County and recharges 130 million gallons of water per day. It is described by the water district as "the world's largest project of its kind."⁶⁷

Humans vs. Wildlife: The Regulatory Conflicts of Too Little Water

As the use of recycled water grows exponentially in years ahead, this trend, too, will be on a collision course with climate change and extended periods of drought. Producing recycled water means districts discharge less treated wastewater into streams and rivers – which has an unintended consequence of altering the watery habitats of sensitive species. For wastewater districts, extended drought sets up conflicting regulatory demands from federal, state and regional government agencies over human needs for recycled water versus habitat's need for instream flow. Explained Mr. Friess to the Commission, "As aquatic species experience greater stress, the need to maintain minimum flows to the

streams to sustain them is garnering increased interest from the resource agencies. And these trends may reduce the availability of recycled water that we can use for water supply purposes at the same time the drought conditions are sharply increasing the demand for the recycled water.”

A new regulatory framework for adaptive management.

“One aspect we’d like to highlight is the need for the state to explore how the regulatory framework for water quality and water quantity should adapt to climate change, as well,” Mr. Friess testified to the Commission. “The issue is that the regulations to protect water quality and plants, fish and wildlife are all based on preserving what is, or what was, at some point in time. However, it can be expected that even with reductions in greenhouse gas emissions, many of the impacts of climate change are going to occur anyway. Therefore the question that has to be addressed,” said Mr. Friess, “is whether the status quo can be preserved, whether an adaptive approach has to be taken to resetting the baseline for what it is we’re trying to protect. This would require a new approach by regulatory agencies, one that is very difficult,” he said. “But if we don’t move in this direction the danger is we’re going to spend a lot of resources trying to maintain the old normal, even when that baseline is no longer tenable.”

A Rising Ocean and 1,000-Year Storms: What Awaits Flood District Managers?

As a coastal state, California faces the impacts of sea level rise and, according to widespread scientific consensus, increasingly severe storms with potential to overwhelm flood defenses. Prolonged historic rainstorms of the type that poured more than 50 inches in and around Houston as a result of Hurricane Harvey in August 2017⁶⁸ – and 15 inches in 10 hours onto South Carolina in October 2015 (described as a 1,000-year storm)⁶⁹ – point to what California might face in years ahead.

A November 2013 Department of Water Resources (DWR) report, “California’s Flood Future,” states that Orange, San Mateo and Santa Clara counties have the largest populations exposed within 100-year floodplains, those areas that have a 1-in-100 (or 1 percent) probability of flooding in any given year. In Los Angeles, Orange and Santa Clara counties, 60 percent of residents –

approximately 15 million people in all – are similarly exposed within 500-year floodplains. The department also reports that \$575 billion worth of structures are exposed within 500-year floodplains statewide – 40 percent of them in Los Angeles, Orange and Santa Clara counties.⁷⁰

Protecting them – and millions more people and buildings statewide – are flood control districts. Each has an immense responsibility to think ahead and limit flooding scenarios that could cripple the state’s \$2.6 trillion economy and damage its global standing as a reliable trade partner. Typically, throughout California, flood control districts are dependent county districts or divisions housed within departments of public works overseen by county boards of supervisors. But independent special districts also perform flood control operations. Representatives of two of these independent districts testified at the Commission’s October 27, 2016, hearing about infrastructure investments to defend their populations and regional economies from climate-induced superstorms and rising seas.

Fresno Metropolitan Flood Control District

In April 1956, following a series of destructive 1950s floods, voters by a margin of 5-1 in the cities of Fresno and Clovis, and the County of Fresno, established an independent regional flood control district to hold back waters from the nearby Sierra foothills that frequently inundated their flat, lowland geography. Two decades later the 400-square-mile district added groundwater recharge to its portfolio – a far-seeing move that gives it unique advantage for the irregular precipitation trends which scientists consider a likely impact of climate change.

“Among the major floods our region has endured are the floods of 1872, 1884, 1925, 1937, 1938, 1950, 1955 and 1969. It is remarkable to consider how much of our history has been shaped by the benefits and also the destructive power of water.”

Alan Hofmann, general manager, the Fresno Metropolitan Flood Control District, in written testimony for the Commission’s October 27, 2016, hearing.

The district, governed by six appointed representatives of the cities and one representative from the county, has used its property taxes (which account for 41 percent of revenue),⁷¹ bonding authority, developer fees, 2006 Proposition 1E grants and other resources, including reserves, to build a system particularly resilient to fluctuating rainfall and snowmelt. The district has constructed one of the few systems statewide that can simultaneously control flood water in wet years and steer it to facilities to recharge its underground aquifer for drinking water supplies in dry years.

“I would note that our system recharges over 70 percent of the rainfall that is captured within it,” district general manager Alan Hofmann told the Commission. “Most of the times you would say, ‘there’s too much rain,’ and the first thing you’re looking at is ‘how can we get rid of it?’ We take a different approach to stormwater, to say, ‘there’s too much, where *else* can we put it?’”

In written testimony, the district reported that “on a yearly average, approximately 17,000 acre-feet of locally-generated stormwater runoff generated with the urban drainage areas can be retained.” At 325,851 gallons per acre-foot, that is approximately 5.5 billion gallons annually for an underground aquifer classified as “high priority critical overdraft” by the 2014 Sustainable Groundwater Management Act. The cities of Fresno and Clovis also have rights to imported surface water for groundwater recharge.

Dual-purpose infrastructure for flood control and groundwater recharge. Mr. Hofmann said the district collects Sierra Nevada snowmelt and rainwater in four large detention basins in higher elevations of the foothills and leads water to nearly 80 detention or “ponding” basins for groundwater recharge beneath the Fresno-Clovis metropolitan area. Storm drains in the two cities similarly steer water to neighborhood detention basins, which are planted in grass and often also serve as recreational facilities and soccer fields during the dry season. The groundwater recharge system, he said, was largely conceived and built in the pre-Propositions 13 and 218 era, and would be difficult to replicate today with the need for two-thirds votes for special taxes.

The flood control district, though engineered to protect residents against a 200-year storm event, still doesn’t consider itself entirely safe from the historic storms that

a changing climate may bring to California. “Fresno gets its share of thunderstorms, high-magnitude short-duration storms,” Mr. Hofmann told the Commission. He stated in written testimony that the district, which still sees localized flooding during those storms, has begun discussions “on the implementation of a higher capacity standard for basins that could accommodate such a standard to capture and store more stormwater.”

One identified possible way to help finance an expansion, in addition to district revenue, is the Proposition 1 water bond passed by California voters in 2014, Mr. Hofmann told the Commission.

“So what are we doing to deal with climate change or different stormwater patterns? We take a different approach because we’ve been doing this for years. This is our purpose (as a special district). We regularly look at rainfall patterns. We recognize that when we look at the historical 30-year averages, the average annual rainfall has actually increased from nine inches back in the 1960s to today about 11 or 11 and a half inches. So we’ve continued to modify our design standards in our ponding basins and in our collection systems because that’s our sole purpose. It’s pretty easy to do that and not be held back by bureaucracy or political impediments. We can, what we say, get things done.”

Alan Hofmann, general manager, the Fresno Metropolitan Flood Control District, testifying at the Commission’s October 27, 2016, hearing.

Santa Clara Valley Water District

The Commission’s 2014 *Governing California Through Climate Change* report paid particular attention to climate vulnerabilities in Santa Clara County, stating that many of “Silicon Valley’s storied technology campuses risk inundation as water levels rise in San Francisco Bay.” The Commission report cited a December 20, 2012, *Scientific American* article about the endangered county’s sea level rise challenges that stated bluntly: “Facebook is just one of the well-known companies in Silicon Valley’s

technology mecca that will face the effects of climate change in years ahead. Others located near the water here include Google, Yahoo!, Dell, LinkedIn, Intuit, Intel, Cisco, Citrix and Oracle.”

The Santa Clara Valley Water District, which has responsibilities for flood control alongside its traditional role of providing water to nearly two million of the region’s residents, stands on the front lines of keeping San Francisco Bay from spilling into the below-sea-level offices of these companies, as well as the Bay Area’s largest wastewater treatment plant.⁷² At the Commission’s hearing, Melanie Richardson, the water district’s interim chief operating officer – watersheds – described an ambitious \$850 million plan to get ahead of climate-induced sea level rise well before it is too late. The district’s plan, a first of its kind in the Bay Area, provides an important example for special districts statewide in the power of partnerships to prepare and build now for coming climate change impacts.

Multi-government partnerships for mega-projects.

The district, in partnership with the U.S. Army Corps of Engineers and California State Coastal Conservancy, has begun a major levee-construction and wetlands restoration program to protect populations and companies that represent a thriving key sector of the California and national economy. Collectively, the three agencies aim to fortify 18 miles of the county’s San Francisco Bay shoreline against up to three feet of sea level rise for the next 50 years.

“Right now the entire Santa Clara County shoreline is protected by salt pond levees that are not really engineered for flood protection, and therefore the entire coastline is vulnerable to not only the 100-year coastal flooding event, but to sea level rise,” Ms. Richardson told the Commission. “The shoreline study (formally known as the South San Francisco Bay Shoreline Study) is the first study of its kind in the Bay area to develop a specific plan to provide flood risk management in light of sea level rise in the bay.”

Added Ms. Richardson, “The study is proceeding in phases because 18 miles of coastline is a lot to do all at once.”

A first four-mile phase of levee construction and restoration of 2,900 acres of tidal marsh habitat is scheduled to begin construction as early as 2018 and

take approximately three years to finish, Ms. Richardson told the Commission. That phase will bring protection to the north San Jose shoreline between Alviso Slough and Coyote Creek, an area of homes, tech companies and the county’s largest wastewater treatment plant, all about 11 feet below sea level and considered most at risk to sea level rise. The first-phase cost is \$174 million, said Ms. Richardson, with the federal government paying 40 percent (\$71 million). The remaining 60 percent (\$103 million) is funded jointly by the Santa Clara Valley Water District and the California Coastal Conservancy. Their 60 percent share includes \$42 million for the levee and related structures, \$58 million for wetlands restoration and \$3 million for recreation.

Santa Clara County property owners, as well as property owners throughout the nine-county Bay Area, also are helping finance this massive sea level rise project, said Ms. Richardson. A 2012 Santa Clara Valley Water District parcel tax approved by more than two-thirds of county taxpayers – the Safe Clean Water and Natural Flood Protection Program, or Measure B – provided \$15 million for design and construction of the first phase, as well as \$5 million for studies of the remaining 14 miles. In addition, Measure AA, the \$500 million, 20-year Clean and Healthy Bay parcel tax passed by more than two thirds of Bay Area voters in June 2016, will contribute \$60 million over time toward the entire 18-mile flood and sea level rise protection project, Ms. Richardson testified. Ms. Richardson told the Commission that conversations are underway with the U.S. Army Corps of Engineers regarding the next phases. “Prior to starting the next phase of the shoreline study in other economically impacted areas, our district is out in front analyzing conditions in the Palo Alto, Mountain View and Sunnyvale shorelines to determine where the next piece that makes the most economic sense should be worked on,” she testified.

When discussing the entire \$850 million price tag to protect the Silicon Valley region against an uncertain future, Ms. Richardson pointed to the financial power of partnerships. “That’s why it’s so important for us to have participation by our federal partners,” she said. “It’s a very expensive project for local entities to undertake alone.”

RECOMMENDATIONS

Locally and regionally, special districts are clearly thinking about an uncertain future, whether they call it changing weather patterns or climate change. The dozen approaches outlined show a handful of special districts getting ready for what's coming and no doubt, their executives occasionally lie awake at night thinking about the many what if's that accompany their responsibilities. These forward motions by California districts might, in some or even most cases, be among the most advanced nationally for climate change adaptation. Yet, there is clearly more that trade associations for these districts – and also state government – can do to help and also to stay out of their way with regulatory overreach. Among options considered by the Commission and recommended here:

Recommendation 15: The Legislature should place a requirement that special districts with infrastructure subject to the effects of climate change should formally consider long-term needs for adaptation in capital infrastructure plans, master plans and other relevant documents.

Most special districts, especially the legions of small districts throughout California, have their hands full meeting their daily responsibilities. Many have few resources and little staff time to consider long-range issues, particularly those with the heavy uncertainty of climate change adaptation. Making climate change a key planning and operational consideration would formally and legally elevate issues of adaptation and mitigation, especially for districts where immediate concerns make it too easy to disregard the future.

Recommendation 16: The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program's adaptation information clearinghouse being established within the Governor's Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state's current Fourth Assessment of climate threats, a state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.

The OPR clearinghouse promises to be the definitive source of climate adaptation planning information for local governments throughout California. An OPR representative at the Commission's October 2017 hearing invited more district participation in state climate adaptation processes. It is critical that special districts and their associations assume a larger participatory role – both within state government and among their memberships – to expand the knowledge base for local governments statewide.

Recommendation 17: The state should conduct a study – by either a university or an appropriate state department – to assess the effect of requiring real estate transactions to trigger an inspection of sewer lines on the property and require repairs if broken.

Every California property owner has the responsibility to adapt to climate change. This begins at home with maintenance and upgrading of aging sewer laterals. Requiring inspections and repairs during individual property transactions is an optimum way to slowly rebuild a region's collective wastewater infrastructure in the face of climate change. At the community level, repairs will help prevent excess stormwater during major climate events from overwhelming wastewater systems and triggering sewage spills into public waterways.

The Oakland-based East Bay Municipal Utility District has instituted an ordinance that requires property owners to have their private sewer laterals inspected if they buy or sell a property, build or remodel, or increase the size of their water meter. If the lateral is found to be leaking or damaged, it must be repaired or replaced. The state should consider implementing this policy statewide.

Recommendation 18: State regulatory agencies should explore the beginnings of a new regulatory framework that incorporates adaptable baselines when defining a status quo as climate impacts mount.

With climate change what has happened historically will often be of little help in guiding regulatory actions. State regulations designed to preserve geographical or natural conditions that are no longer possible or no longer exist already are creating problems for special districts. Wastewater agencies, for example, face conflicting regulations as they divert more wastewater flows to water recycling for human needs and less to streams historically home to wildlife that may or may not continue

to live there as the climate changes. While it is not easy for regulators to work with moving targets or baselines, climate change is an entirely new kind of status quo that requires an entirely new approach to regulation.

Recommendation 19: The California Special Districts Association, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.

Special districts are uniquely suited to communicate with and help prepare millions of Californians for the impacts of climate change. Nearly all have public affairs representatives increasingly skilled at reaching residents through newsletters, social media and public forums. District staffs grapple constantly with new ways to increase their visibility. Many will find they can build powerful new levels of public trust by helping to prepare their communities for the uncertainty ahead.

Recommendation 20: The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.

Water, wastewater and flood control districts are already bringing numerous agencies to the table to pool money, brainpower and resources for big regional projects. The East Bay Municipal Utility District has arrangements with many Bay Area and Central Valley water agencies to identify and steer water to where it is most needed for routine demands and emergencies alike. The Metropolitan Water District and Sanitation Districts of Los Angeles County also increasingly pool their joint resources to steer more recycled water to groundwater recharge basins for dry years. Likewise, the Santa Clara Valley Water district and other state and federal agencies are collectively planning and funding 18 miles of levees to protect the region from sea level rise. These partnerships among special districts and other government agencies clearly hint at what will be increasingly necessary as climate impacts begin to mount.

Appendices

Appendix A

Public Hearing Witnesses

The list below reflects the titles and positions of witnesses at the time of the hearing.

Public Hearing on Special Districts

August 25, 2016

Sacramento, California

Michael Coleman, Principal, CaliforniaCityFinance.com

Jon Coupal, President, Howard Jarvis Taxpayers Association

Amber King, Senior Legislative Advocate, Association of California Health Care Districts

John Leopold, Chair, California Association of Local Agency Formation Commissions, Santa Cruz County District 1 Supervisor and Santa Cruz County Local Agency Formation Commission member

Stephen Lucas, Executive Officer, California Association of Local Agency Formation Commissions and Butte County Local Agency Formation Commission

Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association

Michael Schwartz, Fire Chief, North Tahoe Fire Protection District

Public Hearing on Special Districts

October 27, 2016

Sacramento, California

Jeffrey D. Armstrong, General Manager, Rancho California Water District

Louise Bedsworth, Deputy Director, Governor's Office of Planning and Research

Alexander R. Coate, General Manager, East Bay Municipal Utility District

Philip L. Friess, Department Head, Technical Services, Sanitation Districts of Los Angeles County

Alan Hofmann, General Manager, Fresno Metropolitan Flood Control District

Melanie Richardson, Interim Chief Operating Officer – Watersheds, Santa Clara Valley Water District

Wendy Ridderbusch, Director of State Relations, Association of California Water Agencies

Appendix B

Meeting Participants

The list below reflects the titles and positions of participants at the time of the meeting.

***Advisory Committee Meeting on Special Districts
November 16, 2016
Sacramento, California***

Peggy Broussard Wheeler, Vice President, Rural Healthcare and Governance, California Hospital Association

Ken Cohen, Executive Director, Association of California Healthcare Districts

Arthur J. Faro, Board President, Sequoia Healthcare District, San Mateo County

Barbara Glaser, Senior Legislative Advocate, California Hospital Association

Colin Grinnell, Chief Consultant, Senate Government and Finance Committee

Jack Hickey, Board Member, Sequoia Healthcare District, San Mateo County

Barry Jantz, Chief Executive Officer, Grossmont Healthcare District, San Diego County

Amber King, Senior Legislative Advocate, Association of California Healthcare Districts

Sheretta Lane, Vice President of Finance and Policy, District Hospital Leadership Forum

Misa Lennox, Associate Consultant, Assembly Local Government Committee

Lee Michelson, Chief Executive Officer, Sequoia Healthcare District, San Mateo County

Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association

Bobbi Palmer, Executive Director, Fallbrook Healthcare District, San Diego County

Mona Palacios, Executive Officer, Alameda County Local Agency Formation Commission

Lou Ann Texeira, Executive Officer, Contra Costa County Local Agency Formation Commission

***Roundtable Discussion on Special Districts
June 22, 2017
Sacramento, California***

Debby Cherney, Deputy General Manager, Eastern
Municipal Water District

Steve Heide, Finance Manager, Chino Valley
Independent Fire District

José Henríquez, Executive Officer, El Dorado Local
Agency Formation Commission

Gay Jones, Board Member, California Association of
Local Agency Formation Commissions, Sacramento
Metro Fire District, Board Member and Sacramento
LAFCO Commissioner

Jill Kanemasu, Acting Division Chief, Local
Government Programs & Services Division, Office of
State Controller Betty T. Yee

George Lolas, Chief Operating Officer, Office of State
Controller Betty T. Yee

Amber King, Senior Legislative Advocate, Association
of California Health Care Districts

Steve Lucas, Executive Officer, Butte Local Agency
Formation Commission

Jimmy MacDonald, Consultant, Senate Government
and Finance Committee

Scott Morgan, Deputy Director of Administration and
State Clearinghouse Director, Governor's Office of
Planning and Research

Pamela Miller, Executive Director, California
Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director,
California Special Districts Association

Sarah Rubin, Program Manager, Public Engagement,
Institute for Local Government

Wendy Ridderbusch, Director of State Relations,
Association of California Water Agencies

Herb Schultz, CEO, Desert Healthcare District

Gareth Smythe, Executive Fellow, Governor's Office of
Planning and Research

Christina Valencia, Chief Financial Officer, Inland
Empire Utilities Agency

Appendix C

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Also, courtesy of iStock photos. <http://www.istockphoto.com/>. Accessed on August 30, 2017.

Notes

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- 3 Kyle Packham. Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. August 25, 2016. Written testimony to the Commission.
- 4 Wendy Ridderbusch. Director of State Relations. Association of California Water Agencies. Sacramento, CA. December 12, 2016. Written Communication.
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Little Hoover Commission Members

Chairman Pedro Nava (*D-Santa Barbara*) Appointed to the Commission by former Speaker of the Assembly John Pérez in April 2013 and reappointed by Speaker of the Assembly Anthony Rendon in 2017. Government relations advisor. Former state Assemblymember from 2004 to 2010. Former civil litigator, deputy district attorney and member of the state Coastal Commission. Elected chair of the Commission in March 2014.

Vice Chairman Sean Varner (*R-Riverside*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. Managing partner at Varner & Brandt LLP where he practices as a transactional attorney focusing on mergers and acquisitions, finance, real estate and general counsel work.

David Beier (*D-San Francisco*) Appointed to the Commission by Governor Edmund G. Brown Jr. in June 2014. Managing director of Bay City Capital. Former senior officer of Genentech and Amgen. Former counsel to the U.S. House of Representatives Committee on the Judiciary. Serves on the board of directors for the Constitution Project.

Iveta Brigis (*D-Los Gatos*) Appointed to the Commission by Governor Edmund G. Brown Jr. in April 2017. Open Sourcing People Operations Program lead at Google Inc. since 2014, and looks after re:Work, Google's initiative to open source data-driven HR practices.

Senator Anthony Cannella (*R-Ceres*) Appointed to the Commission by the Senate Rules Committee in January 2014. Elected in November 2010 and re-elected in 2014 to represent the 12th Senate District. Represents Merced and San Benito counties and a portion of Fresno, Madera, Monterey and Stanislaus counties.

Joshua LaFarga (*NPP-Wilmington*) Appointed to the Commission by Speaker of the Assembly Anthony Rendon in June 2017. Director of public and government affairs and as recording secretary and executive board member at LiUNA! Local 1309.

Assemblymember Chad Mayes (*R-Yucca Valley*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in September 2015. Elected in November 2014 to represent the 42nd Assembly District. Represents Beaumont, Hemet, La Quinta, Palm Desert, Palm Springs, San Jacinto, Twentynine Palms, Yucaipa, Yucca Valley and surrounding areas.

Don Perata (*D-Orinda*) Appointed to the Commission in February 2014 and reappointed in January 2015 by the Senate Rules Committee. Political consultant. Former president pro tempore of the state Senate, from 2004 to 2008. Former Assemblymember, Alameda County supervisor and high school teacher.

Assemblymember Bill Quirk (*D-Hayward*) Appointed to the Commission by Speaker of the Assembly Anthony Rendon in 2017. Elected in November 2012 to represent the 20th Assembly District. Represents Hayward, Union City, Castro Valley, San Lorenzo, Ashland, Cherryland, Fairview, Sunol and North Fremont.

Senator Richard Roth (*D-Riverside*) Appointed to the Commission by the Senate Rules Committee in February 2013. Elected in November 2012 to represent the 31st Senate District. Represents Corona, Coronita, Eastvale, El Cerrito, Highgrove, Home Gardens, Jurupa Valley, March Air Reserve Base, Mead Valley, Moreno Valley, Norco, Perris and Riverside.

Janna Sidley (*D-Los Angeles*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. General counsel at the Port of Los Angeles since 2013. Former deputy city attorney at the Los Angeles City Attorney's Office from 2003 to 2013.

Helen Torres (*NPP-San Bernardino*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. Executive director of Hispanas Organized for Political Equality (HOPE), a women's leadership and advocacy organization.

“Democracy itself is a process of change, and satisfaction and complacency are enemies of good government.”

Governor Edmund G. “Pat” Brown,
addressing the inaugural meeting of the Little Hoover Commission,
April 24, 1962, Sacramento, California