

Senate Bill 1023 (Wiggins) --- Converting Special Districts

Summary. Senate Bill 1023 (Wiggins) creates an expedited procedure for converting resort improvement districts and municipal improvement districts that operate under archaic statutes into community services districts, without substantive changes to their powers, duties, finances, or service areas.

Existing law. The *Cortese-Knox-Hertzberg Local Government Reorganization Act* (Government Code §56000, et seq.) sets up a local agency formation commission (LAFCO) in each county with the power to govern the formation, boundaries, and dissolution of most special districts (§56036 & §56037). These procedures usually require five steps:

- Application to LAFCO, including environmental review.
- A formal public hearing for LAFCO review and approval.
- Another formal hearing to measure public protests.
- The possibility of an election, if there was significant protest.
- Ministerial filing of final documents.

A reorganization (§56073) is merely a way to combine two or more proposed boundary changes (§56021) into a single proposal. For example, a reorganization could involve the simultaneous dissolution (§56035) of an existing special district and the formation (§56021) of a new district.

In 2005, the Legislature revised the *Community Services District Law* (Government Code §61000, et seq.; SB 135, Kehoe, 2005). Under this principal act, more than 300 community services districts (CSDs) can deliver a wide variety of public facilities and services. However, before a CSD can activate its latent powers and offer a new public service, it must receive LAFCO's approval (§61106 & §56824.1). Practitioners also see the new statute as an opportunity to convert existing special districts that operate under outdated statutes into CSDs that can operate under contemporary laws.

From the mid-1950s until 1960, the Legislature created several special-act special districts called Municipal Improvement Districts (MIDs) to deliver public services to particular communities, some of which supported specific development projects. The practice of creating special districts for particular developers stopped in 1960. There are five remaining MIDs:

Bethel Island MID	Contra Costa County
Embarcadero MID	Santa Barbara County
Estero MID	Foster City, San Mateo County
Guadalupe Valley MID	Brisbane, San Mateo County
Montalvo MID	Ventura County

City councils are the *ex officio* governing boards of the two MIDs in San Mateo County, while the other three MIDs have their own directly elected boards of directors.

In 1961, the Legislature passed the *Resort Improvement District Law* (Public Resources Code §13000, et seq.; SB 384, Cameron, 1961). In 1965, the Assembly held hearings into special districts' abuses and one result was to ban new resort improvement districts (Public Resources Code §13003).

Nevertheless, seven RIDs still remain:

Grizzly Lake RID	Plumas County
Lake Berryessa RID	Napa County
Napa Berryessa RID	Napa County
Resort Improvement District No. 1	Humboldt County
Stony Gorge RID	Glenn County
Tahoe Paradise RID	El Dorado County
Talmont RID	Placer County

The county boards of supervisors in Napa and Glenn Counties govern their RIDs *ex officio*, but the other four RIDs have their own directly elected boards of directors.

Problem statement and policy choices. The MIDs’ special acts and the RID statute are archaic, making it hard for these special districts’ boards and managers to govern themselves and deliver public services with transparency and accountability. Some LAFCOs and some of these districts want to convert those districts into CSDs, without changing their boundaries, services, finances, or other duties. However, converting RIDs and MIDs into CSDs can be expensive, complicated, and time consuming.

To switch principal acts under current law, an applicant must formally ask LAFCO to approve a reorganization that proposes the dissolution of the existing RID or MID and the formation of a new CSD. The five-step LAFCO procedures take about a year to complete. Further, these reorganizations require the payment of LAFCO processing fees (Government Code §56383) and they need majority-voter approval (Government Code §57077 [b][1]).

To convert RIDs and MIDs into CSDs more quickly, there are at least two policy options:

Special legislation. The Legislature has plenary authority over general law local governments, including special districts. Legislators have the constitutional authority to reorganize local governments without the need for local elections or even against citizen protests (*Broadmoor Police Protection Dist. v. San Mateo Local Agency Formation Com.* [1994] 26 Cal.App.4th 304, relying on *Hunter v. City of Pittsburgh* [1907] 207 U.S. 161). Examples of how the Legislature has used this plenary authority include:

- Dissolving the Avenal Sanitary District and the Avenal Heights Sanitary District and forming the Avenal Community Services District to replace the two dissolved districts (SB 1998, Montgomery, 1955; Chapter 1702, Statutes of 1955).
- Dissolving the obsolete Hunters Point Reclamation District (SB 615, Kopp, 1987; Chapter 794, Statutes of 1987).
- Converting the Hot Spring Valley Irrigation District into the Hot Spring Valley Water District (SB 1117, Cox, 2008; Chapter 615, Statutes of 2008).
- Converting the Vandalia Irrigation District into the Vandalia Water District (SB 1276, Ashburn, 2008; Chapter 619, Statutes of 2008).

Expedited reorganization. Rather than unilaterally wield its plenary authority, the Legislature has delegated control over the formation, powers, and boundaries of special districts to LAFCOs. The courts regard LAFCOs at the Legislature’s “watchdog” over boundary changes

(*City of Ceres v. City of Modesto* [1969] 274 Cal.App.2d 545; *Timberidge Enterprises, Inc. v. City of Santa Rosa* [1978] 86 Cal.App.3d 873). The Legislature can modify the five-step procedures in the Cortese-Knox-Hertzberg Act and provide the procedures for an “expedited reorganization.” That’s the approach taken by SB 1023.

What the bill does. SB 1023 allows LAFCOs to convert Resort Improvement Districts and selected Municipal Improvement Districts into community services districts, without substantive changes to the districts’ powers, duties, financing, or service areas.

More specifically, SB 1023 allows for expedited reorganizations with these features:

- Standard procedures for applying to LAFCO (i.e., a petition or a formal resolution).
- The LAFCO retains its existing discretion to approve or disapprove.
- The RID or MID can stop the conversion up until the time of LAFCO approval.
- If the LAFCO approves, there is no protest hearing and no election.
- If LAFCO approves, it must impose the terms and conditions listed in the proposed bill.
- The terms and conditions transfer everything to the new CSD, without any changes.
- LAFCO can change the terms and conditions, but only after notifying the RID or MID.
- The bill applies only to RIDs and independent MIDs, not to city-dependent MIDs.
- The new law will sunset these special procedures after seven years, on January 1, 2018.

After SB 1023 becomes law, the LAFCOs will probably comply with the *California Environmental Quality Act* (“CEQA,” Public Resources Code §21000, et seq.) by filing a notice of exemption. An expedited reorganization is likely to qualify as a Class 20 categorical exemption pursuant to Section 15320 of Title 14 of the California Code of Regulations.

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