

Government Code
61008.

(a) Except as otherwise provided in this division, districts are subject to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

(b) A board of directors may require that the election of members to the board of directors shall be held on the same day as the statewide general election pursuant to Section 10404 of the Elections Code.

(c) A district may conduct any election by all-mailed ballots pursuant to Division 4 (commencing with Section 4000) of the Elections Code.

(d) A district may hold advisory elections pursuant to Section 9603 of the Elections Code.

(Added by Stats. 2005, Ch. 249, Sec. 3. Effective January 1, 2006.)

Senate Bill 135 (Kehoe)
Chapter 249, Statutes of 2005
Community Services District Law Revision

Summary: Senate Bill 135 revises the state laws governing community services districts.

Problem: The statutes that govern the community services districts (CSDs) are incomplete and out-of-date. The Legislature has not comprehensively revised the Community Services District Law since it was re-enacted in 1955.

Background: The Community Services District Law (Government Code §61000, et seq.) is the principal act that governs the 317 community services districts (CSDs). Legislators originally passed the CSD Law in 1951 and re-enacted it in 1955. In the last 50 years, the Legislature has passed scores of amendments to the CSD Law, resulting in a convoluted statute that has more than 300 separate sections. The newly revised CSD Law takes effect on January 1, 2006.

The voters amended the California Constitution by passing Propositions 13, 4, 218, and 1A. Other voter initiatives created the Political Reform Act and changed local officials' fiscal powers. The Legislature enacted and expanded state laws on open meetings, public records, fiscal audits, special districts' boundaries, land use planning, and public finance. The 1955 CSD Law reflects few of these reforms. Finding similar problems with other special districts' statutes, the Senate Local Government Committee previously rewrote the principal acts that govern fire protection districts (1987), recreation and park districts (2001), mosquito abatement and vector control districts (2002), and public cemetery districts (2003).

The Senate Local Government Committee, chaired by Senator Christine Kehoe, convened a 19-member Working Group on Revising the Community Services District Law to review the current CSD Law and recommend revisions. Working with expert advisors, the Working Group met six times between November 2004 and June 2005, to review every section in the 1955 Law and the drafts of the new CSD Law. Senator Kehoe amended the results of the Working Group's advice into **Senate Bill 135**, the legislative vehicle to rewrite the Community Services District Law.

The provisions of **Senate Bill 135** differ from the 1955 CSD Law in dozens of ways. Rather than examine each of the bill's features in detail, this summary looks at four types of changes:

- Policy.
- Powers.
- Procedures.
- Oversight.

Policy. The 1955 CSD Law does not contain any overt statements of legislative intent or statewide policy to guide the CSDs. **Senate Bill 135** opens with seven legislative findings, recognizes four roles that CSDs play in community governance, and recites three statements of legislative intent (see the proposed §61001). Based on those policies, **SB 135** strengthens CSDs' governance:

- Voters can elect directors at-large, by divisions, or from divisions (§61021 & §61025).
- Voters can convert dependent CSDs into independent districts (§61022 & §61027).
- All CSDs' boards of directors must have five directors (§61040 & §61041).
- Directors set policy; general managers implement policy (§61040 & §61051).
- Directors serve staggered, four-year terms (§61042).
- Directors must follow formal procedures (§61043, §61044 & §61045).
- General managers have defined roles (§61002 [f] & §61051).

Powers. Responsible and effective local governments need enough (but not too much) power to carry out their statutory policies. The Working Group spent days scrutinizing the 1955 Law and recommending changes. **Senate Bill 135** contains these specific differences:

- Limits the purposes for paying stipends to directors (§61047).
- Clarifies how CSDs can manage their own finances (§61053).
- Consolidates the scattered sections authorizing CSDs' basic corporate powers (§61060).
- Consolidates the scattered sections authorizing 31 public services and facilities (§61100).
- Preserves nine special services for specific CSDs (§61105).
- Clarifies how CSDs can activate their latent powers (§61002 [h] & §61106).
- Requires CSDs to adopt budgets (§61110+).
- Requires CSDs to adopt annual appropriations limits (§61113).
- Explains how CSDs may raise additional revenues (§61120+).
- Explains how CSDs may generate capital for public works (§61125+).
- Increases the bid threshold for public works contracts (Public Contract Code §20682+).

Special districts are limited-purpose governments that have only the powers that the Legislature has delegated to them. State law lets districts provide public facilities and services, but rarely gives them regulatory powers. In contrast, counties and cities are general-purpose local governments with broad police powers that let them regulate private behavior in the public interest. For example, counties and cities use zoning to regulate land use; districts can't. **Senate Bill 135** authorizes CSDs to exercise some specific regulatory powers and public services that are similar to the powers and services provided by the underlying counties and cities. To avoid conflicts, **SB 135** requires CSDs to get other public agencies' permission before they:

- Provide police protection and law enforcement (§61100 [i]).
- Improve public works that belong to another public agency (§61100 [l]).
- Underground utilities that belong to another public agency (§61100 [m]).
- Provide emergency medical services (§61100 [n]).
- Improve flood protection facilities that belong to another public agency (§61100 [r]).
- Remove snow from roads that belong to another public agency (§61100 [w]).
- Provide animal control services (§61100 [x]).
- Regulate streets that belong to another public agency (§61103).
- Grant franchises over public works that belong to another public agency (§61104).

Procedures. **Senate Bill 135** reduces the bulk of the CSD Law from over 300 separate sections to 83 sections. **SB 135** uses a contemporary drafting format, clusters together related topics for quicker reference, and rennumbers the entire CSD Law. To improve effective administration

and political accountability, **SB 135** relies on the practice of “billboarding,” providing statutory cross-references to other existing laws that apply to CSDs as well as to other local governments:

- Lawsuits to challenge CSDs’ validity, debts, and decisions (§61006).
- Boundary changes under the Cortese-Knox-Hertzberg Act (§61007).
- Election procedures under the Uniform District Election Law (§61008).
- Open meetings under the Ralph M. Brown Act (§61044).
- Opportunities for initiative, referendum, and recall elections (§61046).
- Using the Joint Exercise of Powers Act (§61060).
- Changing a CSD’s name (§61061).
- Record retention and destruction (§61061).
- Local land use planning and zoning (§61062).
- Procurement of supplies and equipment (§61063).
- Employee relations under the Meyers-Milias-Brown Act (§61065).
- Providing employee benefits (§61066).
- Providing public services and facilities just like municipal water districts, sanitary districts, fire protection districts, recreation & park districts, mosquito abatement & vector control districts, library districts, airport districts, and pest abatement districts (§61100).
- Annual appropriations limits under the Gann Initiative (§61113).
- Annual allocation of property tax revenues (§61114).
- Regular audits and annual financial reports (§61118).
- Adopting special taxes with 2/3-voter approval (§61121).
- Levying benefit assessments with property-owner approval (§61122 & §61129).
- Standby charges under the Uniform Standby Charge Procedures Act (§61124).

Oversight. Responsive government is accountable government. **Senate Bill 135** promotes the CSDs’ public accountability and responsiveness by:

- Distinguishing the roles of directors and general managers (§61040 & §61051).
- Staggering directors’ four-year terms (§61042).
- Clarifying the use of the initiative, referendum, and recall (§61046).
- Restating the requirement to retain and destroy records (§61061).
- Requiring formal budgets and fiscal transparency (§61110+).
- Requiring regular audits and annual financial reports (§61118).

Other provisions. Besides enacting a new CSD Law, **Senate Bill 135** also makes conforming changes to these other state laws:

- LAFCOs cannot control districts’ internal zones (Government Code §56036). **SB 135** adds CSDs’ zones to this exemption in the Cortese-Knox-Hertzberg Act (§1 of the bill).
- State law governs how CSDs purchase materials and supplies for their construction projects (Public Contract Code §20680+). **SB 135** clarifies these procedures and raises the bidding threshold for contracts to \$25,000 (§4-§8).
- **SB 135** notes that the new statute is based on the recommendations of the Working Group on Revising the Community Services District Law, convened by the Senate Local Government Committee (§9).
- **SB 135** relies on the California Constitution to avoid paying for the costs of enforcing new crimes (§10).

For more information about **Senate Bill 135**, contact:

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COMMUNITY SERVICES DISTRICT LAW UPDATE

CSDs and LAFCo: What's New?

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A summary of elements of the new CSD legislation (SB 135-Kehoe) that are of interest to LAFCos.

- ♦ Clarifies the intent of the Legislature and the purposes of CSDs. Encourages LAFCos to consider consolidation of single purpose CSDs where appropriate. (§61001)
 - (b) *The Legislature finds and declares that for many communities, community services districts may be any of the following:*
 - (1) A permanent form of governance that can provide locally adequate levels of public facilities and services.
 - (2) An effective form of governance for combining two or more special districts that serve overlapping or adjacent territory into a multifunction special district.
 - (3) A form of governance that can serve as an alternative to the incorporation of a new city.
 - (4) A transitional form of governance as the community approaches cityhood.
 - (c) *In enacting this division, it is the intent of the Legislature:*
 - (1) To continue a broad statutory authority for a class of limited-purpose special districts to provide a wide variety of public facilities and services.
 - (2) To encourage local agency formation commissions to use their municipal service reviews, spheres of influence, and boundary powers, where feasible and appropriate, to combine special districts that serve overlapping or adjacent territory into multifunction community services districts.
 - (3) That residents, property owners, and public officials use the powers and procedures provided by the Community Services District Law to meet the diversity of the local conditions, circumstances, and resources.
- ♦ Establishes a definition for "latent powers." (§61002)
 - (h) "Latent power" means those services and facilities authorized by Part 3 (commencing with Section 61100) that the local agency formation commission has determined, pursuant to subdivision (h) of Section 56425, that a district did not provide prior to January 1, 2006.

This section also clarifies that any service that an existing CSD is currently authorized to perform—but LAFCo has determined through its MSR process is not being performed prior to 1 January 2006—becomes a latent power.
- ♦ Makes the formation process by petition consistent with CKH §56700. (§61010)
- ♦ LAFCo must determine there are sufficient revenues and may condition formation of a CSD on voter approval of funding source. (§61014)
 - (a) Once the proponents have filed a sufficient petition or a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5.
 - (b) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines that the proposed district will have sufficient revenues to carry out its purposes.
 - (c) Notwithstanding subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue provided that the commission conditions its approval on the concurrent approval of special taxes or benefit assessments that will generate those sufficient revenues. In approving the proposal, the commission shall provide that, if the voters or property owners do not approve the special taxes or benefit assessments, the proposed district shall not be formed.
 - (d) If the local agency formation commission approves the proposal for the formation of a district, then the commission shall proceed pursuant to Part 4 (commencing with Section 57000) of Division 3 of §Title 5.
- ♦ While discouraged in the legislation, LAFCos may create dependent CSDs under certain circumstances. (§61022)
 - (a) In the case of a proposed district which contains only unincorporated territory in a single county and less than 100 voters, the local agency formation commission may provide, as a term and condition of approving the formation of the district, that the county board of supervisors shall be the initial board of directors until conversion to an elected board of directors.
 - (b) The board of supervisors shall adopt a resolution pursuant to subdivision (b) of Section 61027, placing the question of having an elected board of directors on the ballot when any of the following occurs:

- (1) When the registrar of voters certifies in writing that the number of voters in the district has reached or exceeded 500.
 - (2) When the registrar of voters certifies in writing that the number of voters in the district has reached or exceeded a lower number specified by the local agency formation commission as a term and condition of approving the formation of the district.
 - (3) Ten years after the effective date of the district's formation.
 - (4) The local agency formation commission has required, as a term and condition of approving the formation of the district, placing the question of having an elected board of directors on the ballot in less than 10 years after the effective date of the district's formation.
- ◆ The law requires a five member Board of Directors (§61040). When LAFCo reorganizes two or more districts together as a CSD, it may allow a larger Board of Directors for a period of time. (§61030)
 - ◆ Allows LAFCo to authorize a new CSD to be authorized to perform virtually any service that any special district can perform in California (§61100). Over 30 services can be authorized by LAFCo, including service as an Area Planning Commission and a Municipal Advisory Council.
 - ◆ Requires an existing CSD to come to LAFCo in order to authorize a latent power. Once authorized by LAFCo the CSD may exercise that power at any time in the future without further LAFCo review.
 - (a) If a board of directors desires to exercise a latent power, the district shall first receive the approval of the local agency formation commission, pursuant to Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of Division 3.
 - (b) After receiving the approval of the local agency formation commission, the board of directors may, by ordinance, order the exercise of that power.
 - ◆ If a CSD seeks to divest itself of a power, and it would require another agency to assume that service provision, the CSD must come to LAFCo first. (§61107)
 - (a) If a board of directors desires to divest itself of a power that is authorized pursuant to this chapter and if the termination of that power would require another public agency to provide a new or higher level of services or facilities, the district shall first receive the approval of the local agency formation commission. To the extent feasible, the local agency formation commission shall proceed pursuant to Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of Division 3. After receiving the approval of the local agency formation commission, the board of directors may, by ordinance, divest itself of that power.
 - ◆ Late in the process, an amendment was added that prohibits LAFCo from approving a latent power if LAFCo determines that another agency already provides the service in the proposed territory. (§61107b)
 - (b) Notwithstanding subdivision (a) of Section 56824.14, the local agency formation commission shall not, after a public hearing called and held for that purpose pursuant to subdivisions (b) and (c) of Section 56824.14, approve a district's proposal to exercise a latent power if the local agency formation commission determines that another local agency already provides substantially similar services or facilities to the territory where the district proposes to exercise that latent power.
 - ◆ CSDs may form zones within the district for the purpose of providing services or for assessments and fees without approval from LAFCo. (§61143)