

Water Special Districts: A Look at Governance and Public Participation

LEGISLATIVE ANALYST'S OFFICE

Chapter 107, Statutes of 2001
(AB 38, Strom-Martin)



INTRODUCTION

There are hundreds of water special districts in California, with a great diversity of purposes, governance structures, and financing mechanisms. Some districts are responsible for one type of specific duty, while others provide a wide range of public services. Some are governed by a county board of supervisors or city council while others have their governing boards directly elected by the public.

Chapter 107, Statutes of 2001 (AB 38, Strom-Martin), requires the Legislative Analyst's Office to undertake a study of these special districts. Focusing on districts which provide water, sanitation, and flood control services, Chapter 107 requires attention to the following issues:

- A discussion of the advantages and disadvantages of different governance structures.
- The potential for conflicts among competing policy goals resulting from the same governing board making both land use planning and water decisions.
- A review of the ways in which water special districts communicate information with interested parties and suggestions for improving public input.

BACKGROUND: WATER SPECIAL DISTRICTS IN CALIFORNIA

As specified in Chapter 107, this report defines water special districts as those districts which perform at least one of three specific duties: water delivery, waste disposal (sanitation), and flood control and water conservation. This report relies upon the State Controller's definitions of these activities, as used in the annual financial report which all special districts must file. The following information reflects data reported to the Controller for 1997 98 (the most recent year of data available).

Governing Statutes

In California, a water special district can be created (1) by forming under a general water district act or (2) through a special act of the Legislature. General acts prescribe the duties, responsibilities, and powers of districts that form using its statutory authority. These acts' parameters are sufficiently broad to apply to districts across the state. Creation of a special district through a general water district act requires an application through the Local Agency Formation Commission (LAFCO) in a district's county. On the other hand, a number of water districts have been formed by a special act of the Legislature. A special act's provisions apply only to the district proposed to be formed. Once they are

formed, LAFCOs have jurisdiction over many special district issues—including boundary changes, consolidation, and dissolution.

Because a wide range of general and special acts exist in state law, water special districts are governed by a large number of distinct statutory authorizations. Figure 1 summarizes the various types of statutory authorizations for the 1,286 districts that provide water services in the state. It shows, for instance, that 196 water-related districts have been established as community services districts. Most water districts have formed under a general act, with less than one-in-ten districts authorized by a special act. Most of the state’s special act districts were formed through flood control and water conservation, water agency, and reclamation authorizations.

Figure 1 Water Special Districts Statutory Authorizations	
Type of District	Number of Special Districts
Community services	196
County water	167
County service areas	139
California water	122
County sanitation	92
Irrigation	92
Sanitary	77
Joint exercise of powers	56
Maintenance	54
Public utility	50
Flood control and water conservation	38
Municipal water	38
County waterworks	34
Water agency	28
Sewer and sewer maintenance	17
Reclamation	16
Water conservation	13
All others	57
Total	1,286

Many of these statutory authorizations allow districts to provide more than one of the three designated water services (water delivery, sanitation, or flood control). Lighting, recreation and park, and street services are the most common nonwater activities performed by the state’s water districts.

TYPES OF GOVERNANCE STRUCTURE

The governing bodies of special districts in California are either dependent or independent. A dependent governing body is one in which the governing body is directly controlled by either a city or county. For dependent districts, a city council or county board of supervisors acts as the district's ruling body or they appoint individuals for that responsibility who serve at the pleasure of the city or county. Independent special districts have their governing body either directly elected by the voters or appointed for a fixed term of service (often by a board of supervisors).

Figure 2
Water Special Districts by County and Governing Type

County	Dependent			Total
	Board of Supervisors	City Council	Independent	
Alameda	3	2	9	14
Alpine	—	—	3	3
Amador	4	—	12	16
Butte	6	—	19	25
Calaveras	—	—	9	9
Colusa	3	—	19	22
Contra Costa	11	1	16	28
Del Norte	3	—	10	13
El Dorado	2	1	4	7
Fresno	19	—	45	64
Glenn	—	—	13	13
Humboldt	1	—	21	22
Imperial	1	—	9	10
Inyo	1	—	11	12
Kern	10	—	51	61
Kings	1	—	18	19
Lake	12	1	11	24
Lassen	1	—	11	12
Los Angeles	21	4	53	78
Madera	30	—	4	34
Marin	3	—	20	23
Mariposa	5	—	3	8
Mendocino	3	1	20	24
Merced	1	—	29	30
Modoc	—	—	8	8
Mono	—	—	8	8
Monterey	10	—	12	22
Napa	3	—	5	8
Nevada	5	—	7	12
Orange	4	1	44	49

Continued

County	Dependent			Total
	Board of Supervisors	City Council	Independent	
Placer	5	—	19	24
Plumas	4	—	12	16
Riverside	5	2	33	40
Sacramento	2	—	22	24
San Benito	—	—	6	6
San Bernardino	8	1	34	43
San Diego	13	4	38	55
San Joaquin	39	1	19	59
San Luis Obispo	10	—	13	23
San Mateo	16	4	13	33
Santa Barbara	4	—	18	22
Santa Clara	—	—	11	11
Santa Cruz	12	—	8	20
Shasta	12	—	10	22
Sierra	1	—	4	5
Siskiyou	1	—	15	16
Solano	—	—	8	8
Sonoma	8	—	10	18
Stanislaus	1	—	20	21
Sutter	3	—	9	12
Tehama	2	—	11	13
Trinity	—	—	4	4
Tulare	4	—	46	50
Tuolumne	1	—	6	7
Ventura	9	2	20	31
Yolo	2	—	10	12
Yuba	1	—	12	13
Totals	326	25	935	1,286

As shown in Figure 2, nearly three-fourths of the state’s water special districts are independent—with most of the remaining districts under the control of a county board of supervisors. Independent water districts account for an even greater share of water activity in the state—nearly 90 percent of total water activity revenues. Almost 100 water special districts are multi-county districts which provide services to residents of more than one county. These districts are shown in Figure 2 under their primary county designation.

FINANCING MECHANISMS

As with other local governments, water special districts pay for their activities through a variety of financing mechanisms. In total, as shown in Figure 3, revenues for water, waste disposal, and flood control activities totaled more than \$7 billion in 1997-98. User fees—customer charges for the

cost of the services that they use—represent the largest source of revenues for water activities (more than 60 percent).

Some water special districts receive an allocation of property taxes from the base 1 percent rate in order to fund a portion of their activities—totaling \$479 million in 1997-98. As a result of state allocation formulas, those water special districts that received property taxes prior to the passage of Proposition 13 in 1978, generally continue to receive property taxes today. Districts that did not receive property taxes prior to 1978 generally do not receive them today. For funding large capital expenditures, many water special districts obtained a two-thirds majority vote of the public in order to override the base 1 percent tax rate. This method provided roughly \$260 million in additional property tax dollars to water special districts in 1997-98.

Figure 3				
Special District Water Activities Revenue Sources				
<i>1997-98 (In Millions)</i>				
	Water	Waste Disposal	Flood Control	Total
User fees/sales	\$2,900	\$1,165	\$217	\$4,282
Property taxes:				
Regular	158	137	184	479
Debt-related	213	31	16	260
Other revenues	1,146	755	189	2,300
Totals	\$4,417	\$2,088	\$606	\$7,061

Since their benefits are more difficult to assess on a property-by-property basis, flood control activities historically have not been funded with user charges to the same extent as water delivery or sanitation. Consequently, a greater percentage of flood control activities today are funded by property taxes than either water or sanitation services. For those districts receiving property taxes, the districts have the option of either using the dollars to (1) lower user charge amounts to levels below what they otherwise would be or (2) fund supplemental programs such as habitat restoration projects.

Other revenue sources—such as interest earnings, various taxes and assessments, and grants from other government agencies—account for the remaining portion of water district revenues.

TRADEOFFS IN GOVERNANCE STRUCTURES

Below, we discuss many of the tradeoffs and tensions that water special districts face as a result of their various governance structures. These tradeoffs involve a number of different components of special district governance structures, including the benefits of:

- Independent versus dependent districts.
- Elected versus appointed officials.
- Focusing exclusively on water versus working on many responsibilities.

Expertise in Water Issues

Effectively governing a water district depends, to some extent, on developing expertise in water policy. The scope of a board's responsibilities will often determine the amount of time available to spend on water issues—in turn influencing the board's level of expertise.

For those dependent water districts administered by a board of supervisors or a city council, dedicating enough time to sufficiently understand water issues may be a difficult challenge. For these districts, water would only be one of a series of responsibilities for board members. For instance, the water district's regular meeting agendas may simply be a part of a broader agenda focusing on other county or city business.

On the other hand, for independent boards or dependent boards with appointed members, board members' public responsibilities would focus more exclusively on water policy. In these cases, board members may be able to spend greater amounts of time developing their water expertise.

At the same time, a district administered by a board of supervisors or city council may offer a broader community perspective than one which focuses exclusively on water issues. For instance, county supervisors would likely have a better understanding of the broad community's needs—due to their public service on a wide variety of issues. This broad perspective could allow a supervisor to have a unique insight into how the water district's policy and direction fit into the community as a whole.

Public Awareness of Officials' Water Policy Positions

Another important component of a governing board's success is the public's knowledge and confidence in the board's positions on water policy. The public's awareness of a board member's water policies can be influenced by whether the member is (1) elected or appointed and (2) works exclusively on water policy or on many policy issues.

For elected officials (of both dependent and independent boards), voters are given the opportunity to voice their confidence at regular election intervals. Voters likely would be more familiar with a board member's positions on water policy if they campaigned on these issues alone. For those candidates (such as a supervisor or city council member) campaigning on a broad slate of responsibilities, including water, voters may not be as familiar with their water policy positions. On the other hand, an overall understanding of a candidate's governing approach may be helpful for voters to understand how an elected official would handle issues in the water policy area.

Some independent and dependent districts are administered by appointed officials. In these cases, voters must rely on their other elected officials to make informed appointment decisions for the water district.

Economies of Scale

A dependent water district is likely able to take advantage of its city or county's administrative structure to perform many of the district's day-to-day duties. The ability to use the larger government's personnel, procurement, and other administrative systems could provide a significant "economies of scale." By using the city or county infrastructure, the cost of items such as issuing paychecks, training employees, and purchasing office supplies may decline on a per-item basis—yielding cost savings.

Larger independent water districts may be able to mirror these economies of scale by developing their own efficient administrative systems. Smaller districts, however, may not have a sufficient size to obtain these savings.

Other Factors

As described above, the governance structure of a water district can substantially affect its direction and policies. Even so, the board's decisions and their implementation usually depend on many factors beyond the structure of the board.

Board Personalities. Board decision making will often depend on the personalities and political philosophies of its members. The leadership of individual board members can determine the direction of a water board to a much greater degree than its governance structure.

Professional Staff. Boards rely on their professional staff to make recommendations on the direction of the district and then carry out the district's policies. Thus, a team of staff members can play a crucial role in determining the effectiveness and success of a water district's work.

POTENTIAL FOR CONFLICTS IN LAND USE AND WATER DECISIONS

Providing an adequate supply of water to constituents has the potential to conflict with environmental protection and other land use goals. For instance, the development of new water infrastructure might endanger a natural habitat. These competing demands may require communities to make difficult choices regarding growth and development that necessitate tradeoffs and sacrifices.

Considering Conflicting Goals

Some observers of dependent water districts have charged that these districts are more likely than independent districts to sacrifice environmental and land preservation goals in order to encourage growth and development. For instance, a county government in control of a dependent water district will financially benefit—through increased tax revenues—from increased development. Critics assert that this fiscal incentive leads the county to make water decisions that will unnecessarily encourage growth.

For a dependent water district, the growth decision-making process could allow the district to integrate water policies with its other responsibilities. Dependent district decisions might reflect a broad perspective—taking into account many factors such as revenue impacts, service demands (water supply plus other municipal services), desires of the residents, and environmental concerns. The tradeoffs involved with the land use decision probably would be relatively more apparent to a governing body which is responsible for many community needs. For the sake of economic development, housing construction, or other needs, a dependent district could come to a decision which has some adverse environmental effects.

For an independent water district, the decisions surrounding a development decision might focus more exclusively on water demands. This could allow the district to concentrate more attention to the specific water issues that the proposed action might raise. At the same time, an independent district might not be aware of the many other factors affecting a land use decision under the jurisdiction of other government agencies.

Recent legislation will involve independent water districts in the land development process on a more regular basis. Chapter 642, Statutes of 2001 (SB 211, Kuehl), requires specific water agency input for planned housing subdivisions of more than 500 units. This legislation will more explicitly bring water districts into at least some development decisions—regardless of whether they are dependent or independent.

Regional Considerations

An additional criticism of water districts is that they can make decisions which negatively affect the land use of regions outside of their service area. For example, in order to provide water to their residents, a district might control water infrastructure in an adjacent region. The district could make a decision to alter the infrastructure in a manner which affects the surrounding region—without the affected region having representation in the decision-making process.

A particular governance structure of a water district would not necessarily prevent a lack of representation for affected areas outside of a district's boundaries. For both independent and dependent boards, taking into account the widespread impacts of water decisions beyond the district's boundaries represents a difficult challenge. Even when efforts are made to contact affected parties and hear their input, boards must weigh these concerns against the best interests of their jurisdictional boundaries. To some extent, these types of conflicts can be reduced through water districts which are geographically broad enough to encompass all affected land areas. Given the large areas affected by water policy, however, matching a district's size with its affected area may not always be practical.

PUBLIC PARTICIPATION AND WATER DISTRICTS

Chapter 107 also requested information regarding the current practices of water districts to attract and encourage public participation. Below, we review the many participation requirements that exist for agencies and how water districts seek public input.

Notice and Comment Requirements

Like all local governments in California, water special districts are governed by the Ralph M. Brown Act's requirements for public notices and opportunities for public input. In general, notices of agendas must be made at least 72 hours before a meeting, and there must be opportunities for public comment during those meetings.

Beyond their general meetings, water districts often engage in specialized activities related to specific projects or activities. When engaging in these activities, the districts become subject to the specific notice and public comment requirements of those statutes which govern the activities. For instance, when a water district proposes an action subject to the California Environmental Quality Act (CEQA), it must follow the public participation requirements laid out in the CEQA statutes. Other common state laws governing water districts include the Urban Water Management Plan Act and the Ground Water Management Act.

Consequently, water districts often must navigate a complicated set of public participation requirements from various sections of state law—as well as federal requirements. While bringing these requirements into a single uniform system would be desirable from an administrative perspective for water districts, the requirements apply to more governmental entities than water special districts. For instance, CEQA participation requirements could probably be better integrated with other water district requirements and procedures. The CEQA, however, applies to state agencies and local governments—as well as water districts. As a result, changes to these notice and participation requirements could only be undertaken from a comprehensive process examining the many entities which are subject to the law.

Public Notice Practices

Water districts use a number of approaches to inform the public and interested parties about their activities. Many formal notices are statutorily required to be made through newspaper and other media outlets. In addition, districts often communicate through bill inserts, newsletters, mailing lists, and the Internet. Many districts make additional information available through appearances at fairs and other public events. Many districts with large non-English-speaking constituents have made efforts to translate their materials into a number of additional languages.

Public Participation Opportunities

Making information available to the public is only one stage of the public participation process. Those residents interested in voicing their opinion must also be given the opportunity to comment on a district's policies and actions. While some districts report active participation by the public, others report that most of their meetings attract few, if any, members of the public. It is difficult to gauge whether low public participation reflects a lack of controversial decisions being made, general satisfaction with a district's operation, or public difficulties in understanding the process.

Many water districts go beyond the basic Brown Act requirements and seek public participation through a number of other means—such as attending other government and nongovernment organizations' meetings and holding public workshops. These activities offer the opportunity to engage in a more detailed exchange of ideas than is typically possible during a regular meeting. Those water districts seeking to improve public participation could look to similar districts across the state for alternative procedures and practices.

CONCLUSION

Water districts in California provide a diverse range of services—using a variety of financing means and governance structures. While some individual districts have pursued controversial policies, our analysis indicates no evidence of a statewide structural governance problem. Districts must make difficult tradeoffs in making their decisions. In those districts which have produced unpopular results, local remedies may be sought. For instance, residents have the opportunity to access the public participation process and propose changes. Local elections also provide the opportunity to change the character and policies of a governing board. If these approaches are not effective in dictating public opinion, residents also have the ability to approach their LAFCO about changing the structure of their special district.