



SPECIAL DISTRICTS AND PUBLIC DEBT: PART TWO

Mark Campbell
CDIAC, Policy Research Unit

The August 2000 edition of **DEBT LINE** (Vol. 19, No. 8) contained an overview of special district debt outstanding for fiscal year 1996-97. This article continues that discussion by reviewing the principal acts creating county water districts, municipal water districts, irrigation districts, and sanitary districts (Table 1). Of interest are those processes related to the issuance of debt, including formation, organization and structure, financial reporting, bond issuance, and the creation of improvement districts.

The pitfalls of focusing on only a few types of districts are offset by the benefits achieved. Namely, readers of this article should come away with a general understanding of the steps special districts must undertake to issue debt and form improvement districts. Most importantly, this article provides a starting point to understand the responsibilities of special districts to the people they serve. Because of the limited scope of the article, however, additional research would be needed to fully understand the operational and legal mandates of a particular type of district.

Narrowing the Field

With some 4,767 special districts in California, the operations and decisions of this form of local government affect nearly every citizen in the state. This fact justifies the increasing attention paid special districts by analysts and regulators. Since 1999, there have been at least two governmental reports examining the operations of special districts.¹ Recognizing that neither report addressed the responsibilities of special districts with respect to debt issuance, the California Debt and Investment Advisory Commission

(CDIAC) undertook a cursory review of the statutes that apply to those districts that held a significant measure of debt outstanding in fiscal year 1996-97.

Other categories of districts held more total debt outstanding than did county and municipal water districts, irrigation districts, and sanitary districts. For example, public financing corporations, representing mostly public benefit corporations, maintained 27 percent of all the outstanding debt held by special districts during fiscal year 1996-97. County water districts, in contrast, held slightly less than 6 percent. Similarly, joint powers authorities held 15 percent of the debt outstanding during this time period.

Public financing corporations, joint powers authorities, and other categories of special districts that group districts authorized under different acts of state law were excluded from this review for convenience sake. It proved easier to draw conclusions from a homogenous category of districts than one that includes different kinds of districts that are authorized by distinct legislative acts.

The debt figures used to select the categories of special districts for this review included only two types of debt instruments: general obligation bonds and certificates of participation. The data used to generate outstanding debt estimates for special districts could only be verified for these types of instruments.

District Purpose and Formation

Among other purposes, county water districts protect, conserve, and replenish underground water supplies for

present and future uses. Municipal water districts provide for the acquisition, control, distribution, and storage of water, including sewage and storm waters, for the beneficial use of the district. Irrigation districts develop, preserve, and conserve water for beneficial uses and for any ancillary uses such as the distribution and

Table 1

Special District Type	Principal Authorizing Act
County Water Districts	County Water District Law (Water Code, Section 30000 et. seq.)
Municipal Water Districts	Municipal Water District Law of 1911 (Water Code, Section 71000 et. seq.)
Irrigation Districts	Irrigation District Law (Water Code, Section 20500 et. seq.)
Sanitary Districts	Sanitary District Act of 1923 (Health and Safety Code, Section 6400 et. seq.)

sale of electrical energy. Finally, sanitary districts may acquire, construct, alter, maintain, and operate dump sites and garbage collection and disposal systems, sewers, drains, septic tanks, and sewage collection and treatment works and sanitary disposal systems, as well as storm drains and storm water collection systems.

Like all municipal corporations, county water districts, municipal water districts, irrigation districts, and sanitary districts may construct and operate public works. They may also sue and be sued, issue bonds, borrow money, incur debt, and enter into contracts. Table 2 (on page 4) provides a rough comparison of the procedures and requirements of these four types of districts as stated in each of their respective authorizing acts. The Table focuses on district formation, internal organization, financial reporting requirements, the issuance of bonds, and the creation of improvement districts.

District Formation Process – Generally, a percentage of the resident voters within the proposed district may petition the county board of supervisors to form one of the four special districts considered. Special allowance is made for those situations in which the proposed district contains more than one county or more than one municipal corporation. The statutes provide, for example, that a petition for a proposed county water district that includes one or more municipal corporations must be signed by at least 10 percent of the voters of each municipal corporation and of the unincorporated territory to be included in the proposed district.

Forming a special district generally involves submitting a signed petition to the county board of supervisors, publishing a notice of intent to form a district, holding a public hearing, setting the boundaries of the proposed district, and conducting a ballot of resident voters. Minor differences include the period of time the public notice must remain publicly accessible and the timing of the formation election.

District Organization and Structure

Residents of special districts elect district directors to represent them on a board of directors. Each districts can be divided into five divisions, allowing for five directors. Irrigation districts may be divided into three districts during the initial formation process or upon the approval of the district voters at any point after formation.

Directors are typically elected from their divisions. But voters in a county water district have the choice of electing their directors by the division or from the division. The term “by division” means an election of the directors by the voters of the division alone. The term “from division” means an election of directors who are residents of the division from which they are elected.

The statutes pertaining to all four districts require that the districts hold regular meeting. In some cases, the statutes

dictate the date of the first meeting following the formation election. The first meeting of a newly formed municipal water district, for example, must be convened no later than the sixth Monday following the formation election. At this first meeting, the directors must set forth the time and place of their regular meetings and the manner by which they will announce any special meetings. The directors of an irrigation district are to meet on the first Monday of the month.

No formal notice of a meeting of the directors of a special district is required once the meeting schedule is set. The statutes pertaining to three of the four districts, however, state explicitly that these meetings are public. Only the statutes pertaining to sanitary districts do not.

Financial Provisions

All four types of districts may borrow money, incur indebtedness, and issue bonds or other evidences of indebtedness, and may refund or retire any indebtedness or lien against the district. The requirements contained in the four principal acts pertaining to financial reporting, however, are scant. Local governmental agencies may be required to report their financial conditions under other areas of law, including the general provisions contained elsewhere in the California Government Codes. Section 53891 of the Government Codes, for example, requires that each local agency in the state provide a report of all financial transactions to the State Controller. The requirements contained in other statutes than the four principal acts considered here are not included in Table 2.

The provisions for county water district do require the county treasurer to make a financial report in writing to the board of directors on the first day of July, October, January, and March of each year. The report must include, at a minimum, the amount of money held by the district, the amount of receipts since the last report, the amount paid out since the last report. On behalf of irrigation districts, the county treasurer must file a monthly report with the district secretary that accounts for deposits, balances, and anticipated expenditures. The directors of irrigation districts are required to submit an annual financial report and publish it in a newspaper for at least two weeks.

Bond Issuance

In general, county and municipal water districts, irrigation districts, and sanitary districts may issue a variety of bonds to accomplish the purposes of the district, including revenue, general obligation bonds, and assessment bonds. Prior to incurring bonded indebtedness, the board of directors of a district must declare their intent to issue debt through a resolution or other formal process. The order to issue debt may be initiated by the directors, as is the case with county and municipal water districts, or at the request of voters. Both irrigation and sanitary districts allow district voters to initiate the bond election process.

The resolutions issued by district directors to hold bond elections generally include a statement of the purpose for issuing debt, the amount of the debt, and the proposal to be submitted to voters. From that common point, however, the resolutions deviate substantially. Both county and municipal water districts state the term of the debt as well as an interest rate ceiling. Sanitary district resolutions include election information. Irrigation districts issue an order in place of a resolution and the public notice, issued subsequent to the order, provides information on the proposed bonds.

Voters must approve the issuance of bonds for all districts by a 2/3 majority. However, bonds issued by an irrigation district at the request of a petition of voters may only need a majority of votes to pass. Irrigation district bonds paid off with district revenues require a majority of the voters, as well.

The principal acts containing to county water districts and irrigation districts include reference to debt limits. These statutes state that debt may only be issued for the purposes set forth in statutes. A county water district, for example, may issue no more debt than is required to pay “the costs and estimated costs connected with or incidental to the acquisition, construction, improvement, or financing of the project.” This may include all engineering, legal and fiscal agent fees, the cost of a bond election and issuance of the bonds, and the amount of interest expected to accrue during the construction period and 12 months after the project is completed.

Improvement Districts

Special districts may form improvement districts to accomplish specific purposes that serve some district properties but not all or they may form districts to issue bonds. The authority to undertake these improvements is provided by alternative acts, including the Improvement Act of 1911 (Streets and Highway Code, Section 5000 et. seq.) or the Municipal Improvement Act of 1913 (Streets and Highway Code, Section 10000 et. seq). County water districts may establish an improvement district to supply or distribute water or for fire protection, or to collect, treat, or dispose of sewage, waste, and storm water. A district’s directors may further decide that the cost of these improvements will be paid for through an assessment placed upon the benefited properties. The assessment placed on each property within the improvement districts, generally, is weighed at the same time and in the same manner as annual taxes.

Endpoints

Over the past year, substantial interest has been paid to special districts and their fiscal management practices. This article was intended to shed light on the responsibilities of special districts with respect to formation, internal organization, financial reporting, bond issuance, and improvement districts. These procedures have the potential to raise the greatest level of concern among individuals interested in how districts are created, who manages them, how they report their financial activities, how they issue debt, and how they pay for certain types of improvements.

¹ “Water Replenishment District of Southern California: Weak Policies and Poor Planning Have Led to Excessive Water Rates and Questionable Expenses” California State Auditor/Bureau of State Audits. Report Number 99116, December, 1999; “Special Districts: Relics of the Past or Resources for the Future” The Little Hoover Commission, May, 2000.

**Table 2
Summary of Statutory Requirements**

	County Water Districts	Municipal Water Districts	Irrigation Districts	Sanitary Districts
Formation Process				
Who may petition?	Generally, 10 % of the registered voters in the proposed district. Special provisions for proposed districts that would include other municipal corporations	Generally, a petition signed by at least 10 percent of the registered voters in the district. Special provisions for proposed districts that would include an incorporated city	A majority of the landowners likely to receive irrigation from a common source or by not less than 500 voters in the proposed district accounting for not less than 20 percent of land	25 persons within the same watershed may petition for formation of a district
Contents of Petition	1) Text of petition; 2) the number of signers of the petition; 3) at least five names attached to the petition; 4) time and place of the meeting of the board of supervisors considering petition; 5) statement that all interested persons may appear at the meeting	1) Boundaries of proposed district; 2) a request to form the district	1) Description of the land; 2) sources of irrigation water; 3) name of contact person; 4) request to form district; 5) signatures of petitioners. Petition may request that district be divided into three divisions rather than five	1) Name of proposed district; 2) boundaries of proposed district; 3) request that district be formed
Formation Process	Petition submitted to county board of supervisors; hearing notice published once a week for two weeks; board of supervisors may alter boundaries; notice of election issued by supervisors; election date can be set no less than 74 days from final public hearing; public notice published once a week for two weeks prior to the election; notification of LAFCO; printing and distribution of pro and con arguments and analysis of LAFCO; concurrent election of directors; approved by majority vote of residents	Generally, a petition is filed with county clerk; petition is certified and presented by clerk to board of supervisors; upon receipt of petition board of supervisors divides district into 5 equal divisions; board orders election to be held on next election date not less than 74 days after order; public notice published once within 4 weeks of election; notification of LAFCO; distribution of ballot including pro and con arguments, and analysis of LAFCO; approved by majority vote of residents; failing approval, the proposal may be reconsidered within 6 months	Upon a petition being presented to county board of supervisors a hearing date is set; petition filed with department of public works for review; public notice of final hearing provided no less than one week prior to hearing; election order issued by board; public notice of election provided once a week for three weeks; notification of LAFCO; distribution of ballot including pro and con arguments, and analysis of LAFCO; approved by majority vote of residents	Upon being presented to county board of supervisors, petition is published at least two weeks prior to public hearing; boundaries modified by board of supervisors if necessary; board issues order describing boundaries and setting date of election; notice of order published for four consecutive weeks in three public places; notice provided to LAFCO; distribution of ballot including pro and con arguments and analysis of LAFCO; approved by majority vote of resident. Failing approval, no formation effort may be initiated within one year of election
Organization				
No. of Directors	Five	Five	Five or three	Five
Affiliation of Directors	“By division” or “from division”	Residents of division from which elected	Residents of division from which elected	Not specified
Term of Office	Four years	Four years	Four years	Four years
Meeting Notices Requirements	Procedure for setting time and place of all meetings is established at first meeting. All legislative sessions of directors are public	Procedure for setting time and place of all meetings is established at first meeting. All meetings of directors are public meetings	Regular schedule of meeting set by directors, typically first Tuesday of month. All meeting of directors are public meetings	District must hold regular meetings.

Financial Reporting Requirements	Quarterly reports are prepared by county treasurer and submitted to the board of directors	None specified	County treasurer required to file monthly report with district secretary containing the amount of money in treasury, the amount of receipts from preceding month, and anticipated monthly expenditures. The directors are required to submit an annual financial statement and publish it for two weeks in a newspaper	None specified
Bond Issuance				
Election Process	Resolution; public notice; hearing; determination on improvement district; final resolution; election; 2/3 voter approval required	Resolution; public notice; hearing; formation of improvement district, if appropriate; election; 2/3 voter approval required	Election order issued by directors or at request of voters; public notice of election; 2/3-voter approval required or a majority of voters if election was called by petition of voters. Bonds can be approved by majority vote if the principal and interest is payable from district revenues	Directors may issue order for bond election at their own initiative or at request of voters; a notice of bond election posted in three public places for no less than 20 days prior to the election and publication in a newspaper; 2/3 voter approval required
General Contents of Bond Election Resolution	1) Statement of necessity; 2) purpose of debt; 3) statement that bond will benefit whole or portion of the district; 4) amount of the debt; 5) maximum term not to exceed 40 years; 6) annual rate not to exceed 8 percent; 7) the proposal to be submitted to voters	1) Purpose of debt; 2) the amount of debt; 3) maximum term of debt is not to exceed 40 years; 4) maximum interest rate is not to exceed 8 percent; 5) submission of the resolution to voters; 6) date of election; 7) designation of polling places.	Directors issue order for election rather than resolution. Public notice provides election schedule and amount of bonds to be issued. Ballot provides other information on bonds, including amount of bonds to be issued.	1) Time and place of election; 2) names of officers to be considered on ballot; 3) hours of day during which polls are open; 4) purpose of the election; 5) amount of the proposed bonds, maximum rate of interest, and term of the debt.
Improvement Districts				
Formation Process	Two methods, including one that is consistent with the method used by irrigation districts and an alternative method which calls for resolution; public notice published 7 days prior to hearing; majority protest, boundary determination; final resolution; vote of directors	Two methods, one for issuance of bonds and one for other purposes. Method for bond issuance includes resolution of intention, including the purpose of debt, the amount of debt to be issued, and the taxes to be levied. The resolution must also describe the district. Public hearing is followed by resolution to form district, if approved by directors.	Two methods, one used for improvements not to exceed \$50,000. Generally initiated by petition signed by at least 2/3 of titled landowners in proposed district, followed by survey of district, collection of data, public notice and hearing, review of objections, order issued by directors forming district, if appropriate.	Generally, directors issue resolution of intent to form improvement district. A hearing following the resolution; notice of public hearing is to be published
Applicable Improvement Acts	Improvement Act of 1911; Municipal Improvement Act of 1913; Improvement Bond Act of 1915	Improvement Act of 1911; Municipal Improvement Act of 1913; Improvement Bond Act of 1915	None specified	

Source: West's Annotated California Codes

*This Offprint was previously published in **DEBT LINE**, a monthly publication of the California Debt and Investment Advisory Commission (CDIAC). CDIAC was created in 1981 to provide information, education, and technical assistance on public debt and investment to state and local public officials and public finance officers. **DEBT LINE** serves as a vehicle to reach CDIAC's constituents, providing news and information pertaining to the California municipal finance market. In addition to topical articles, **DEBT LINE** contains a listing of the proposed and final sales of public debt provided to CDIAC pursuant to Section 8855(g) of the California Government Code. Questions concerning the Commission should be directed to CDIAC at (916) 653-3269 or, by e-mail, at cdiac@treasurer.ca.gov. For a full listing of CDIAC publications, please visit our website at <http://www.treasurer.ca.gov/stocda.htm>.*

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